IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE TANGIRALA MADHAVI DEVI

WRIT PETITION NO: 33690 OF 2026

Between:

Mr. MUZAFFAR ABDUL ALEEM, S/o Shaik Abdul Aleem, Aged about 38 years, Occ. Service, R/o H.No. 10-3-282/2/A/8/24, Aleem Residency, 3rd Floor, S B Colony, Asif Nagar, Hyderabad, T.S. 500028

...PETITIONER

AND

1. The Union Of India, Ministry of Home Affairs, Represented by the Home Secretary, 3510, 5th floor, Kartavya Bhavan-3, Kartavya Path, Central Scretariat, New Delhi -110 001
2. Bureau of Immigration, Represented by Commissioner of Immigration, East Block-VIII, Level-V, Sector-1, Rama Krishna Puram, New Delhi-110 066
3. The State of Telangana, Rep by its Principal Secretary, Home Department, Secretariat, Hyderabad, T.S.
4. The Commissionerate of Police, Hyderabad City, Office at Integrated Command Control Centre, Banjara Hills, Hyderabad, T.S.
5. The Station House Officer, Gandhinagar Police Station, Gandhi Nagar, Hyderabad, T.S.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or writs or order or orders one more particularly in the nature of Writ of Mandamus declaring the action of the of the 5th Respondent in not issuing notice under section 35 (3) of BNSS pertaining to FIR no.260/2025 dated 29/09/2025 for offence under section 77, 78, 351(2) BNS which are punishable less than 7 years as illegal, arbitrary and unconstitutional and consequently direct the 5th Respondent to

issue notice to the Petitioner under section 35 (3) of BNSS pertaining to FIR no.260/2025 dated 29/09/2025.

I.A. NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 5th Respondent to forthwith issue notice to the Petitioner under section 35 (3) of BNSS pertaining to FIR no.260/2025 dated 29/09/2025.

Counsel for the Petitioner: SRI SYED KHADER MASTAN

Counsel for the Respondent Nos.1&2: SRI N.BHUJANGA RAO, DEPUTY SOLICITOR GENERAL OF INDIA

Counsel for the Respondent Nos.3 to 5: SRI D.PRADEEP, AGP FOR HOME

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SMT JUSTICE TANGIRALA MADHAVI DEVI

W.P.NO. 33690 OF 2026
(CNR No. HBHC010691332026)
DATED: 05.10.2026

Between
Mr.Muzaffar Abdul Aleem

... Petitioner

And

The Union of India and Four Others.

... Respondents

ORDER

This Writ Petition is filed seeking the following relief:

"...to issue to issue a writ or writs or order or orders one more particularly in the nature of Writ of Mandamus declaring the action of the of the 5th respondent in not issuing notice under section 35(3) of BNSS pertaining to FIR No.260/2025, dated 29.09.2025 for offence under Sections 77, 78, 351(2) of BNS which are punishable less than 7 years as illegal, arbitrary and unconstitutional and consequently direct the 5th respondent to issue notice to the petitioner under section 35(3) of BNSS pertaining to FIR No.260/2025, dated 29.09.2025 and to pass..."

2. The learned Assistant Government Pleader for Home, on oral instructions, submitted that the FIR has been registered against the petitioner vide Crime No.260 of 2026, under Sections

77, 78, 351(2) of BNS on 29.09.2025 and the investigation is under progress.

3. The learned counsel for the petitioner submitted that the offences registered against the petitioner prescribes less than seven years punishment and therefore, the respondent police have to follow the guidelines issued by the Hon'ble Supreme Court in the case of **Arnesh Kumar Vs. State of Bihar**, reported in 2014 SC 2756.

4. Having regard to the fact that the offences under Sections 77, 78 and 351(2) of the Bharatiya Nyaya Sanhita, 2023, are punishable with imprisonment which may extend to seven (07) years, the respondent police are directed to follow the procedure contemplated under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, before taking any coercive steps against the petitioner. The respondent police shall also scrupulously follow the guidelines laid down by the Hon'ble Supreme Court in the case of ***Arnesh Kumar (cited supra)***, and thereafter proceed strictly in accordance with law. The petitioner shall cooperate with the

investigation in accordance with law. The respondent police shall not summon the petitioner to the police station except for justifiable cause.

5. With the above observations and directions, this Writ Petition is disposed of. There shall be no order as to costs.

6. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

Sd/-C.DEEPIKA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Home Secretary, Union Of India, Ministry of Home Affairs, 3510, 5th floor, Kartavya Bhavan-3, Kartavya Path, Central Scretariat, New Delhi -110 001
2. The Commissioner of Immigration, Bureau of Immigration, East Block-VIII, Level-V, Sector-1, Rama Krishna Puram, New Delhi-110 066
3. The Principal Secretary, Home Department, Secretariat, Hyderabad, T.S.
4. The Commissionerate of Police, Hyderabad City, Office at Integrated Command Control Centre, Banjara Hills, Hyderabad, T.S.
5. The Station House Officer, Gandhinagar Police Station, Gandhi Nagar, Hyderabad, T.S.
6. One CC to SRI SYED KHADER MASTAN, Advocate [OPUC]
7. One CC to SRI N.BHUJANGA RAO, Deputy Solicitor General of India [OPUC]
8. Two CCs to GP FOR HOME, High Court for the State of Telangana, at Hyderabad [OUT]
9. Two CD Copies

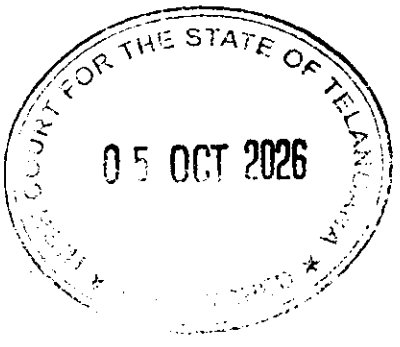
PMK

HIGH COURT **CC TODAY**

DATED: 05/10/2026

ORDER

WP.No.33690 of 2026



DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

12 EK
05/10/26