**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**

**THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA**

**CRIMINAL PETITION No.17924 of 2026**

CNR No. HBHC010751942026

**DATE 25.11.2026**

**Between:**

***Srishailam Kommu*** ***...Petitioner***

**AND**

***The State of Telangana*** ***...Respondent***

**ORDER :**

Heard ***Sri T.V.Ramana Rao,*** learned counsel representing, learned counsel for the petitioner on record, ***Sri Syed Yasar Mamoon***, learned Additional Public Prosecutor appearing for the respondent-State.

2. This petition is filed by the petitioner/accused, seeking anticipatory bail under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), in connection with FIR No.370 of 2026 on the file of Kalwakurthy Police Station, Nagarkurnool District registered for the offences punishable under Sections 196(1) (a), 221 and 352 of the Bharatiya Nyaya Sanhita (for short 'BNS').

3. The allegations against the petitioner are that the petitioner who is said to be an activist of a political party named i.e., B.R.S, recorded and circulated a WhatsApp video containing abusive remarks against the Congress Party activists and the Chief Minister of the State and the police personnel.

4. Initially, the petitioner was charged with the offences under Sections 196(1) (a), 221 and 352 of BNS. During the course of arguments, the learned Additional Public Prosecutor has informed that Inspector of Police, Nagarkurnool, has filed counter and stated that, during the course of investigation, the Investigation Officer has subsequently added Section 152 of BNS and Section 67 of the Information Technology Act, 2000, to the existing Sections by filing an alteration memo before the concerned court and the said additions of Sections were added after filing of the present petition.

5. Learned Additional Public Prosecutor further contended that Investigation Officer find that the contents of the video were likely to disturbed public peace, therefore Section 152 of BNS and Section 67 of the Information Technology Act, 2000 were added. Section 152 of BNS prescribes punishment beyond more than seven years, though the earlier sections are where the punishment prescribed is only below seven years.

6. Learned counsel for the petitioner contended that though the earlier sections which are charged against the petitioner which carries punishment only below seven years and the procedure contemplated under Section 35(3) of the BNSS, 2023 ought to have been invoked by the police, the respondents without following the said mandatory procedure, now trying to arrest the petitioner and the petitioner is apprehending arrest and seeks protection from this court

7. Having heard the counsel for the petitioner and the learned Additional Public Prosecutor, and perused the

material placed on record Admittedly, initially the petitioner was charged for the offences under Sections 196(1) (a), 221 and 352 of BNS, where the punishment prescribed is only below seven years. On perusal of the complaint and the counter which is filed by the respondents, wherein it is contended that during the course of investigation, after recording LWs.1 to 3, they came to the conclusion that there is an element of attracting Section 152 of BNS and Section 67 of the Information Technology Act, 2000.

8. *Prime facie* on the face of it, prosecution could not explain how the complaint attracts the provisions under Sections 152 of BNS and Section 67 of the Information Technology Act, 2000. The Sections which are already invoked against the petitioner are below seven years, where the petitioner is entitled to a notice under Section 35(3) of the BNSS.

9. Therefore, this Court deems it appropriate to direct the Investigating Officer to scrupulously follow the

procedure contemplated under Section 41-A of the Code of Criminal Procedure, 1973 (Cr.P.C.)/Section 35(3) of BNSS and the guidelines issued by the Hon'ble Apex Court in ***Arnesh Kumar Vs State of Bihar***[1]. On such notice being given, the petitioner/accused shall appear before the concerned SHO directed. The concerned Investigating Officer is directed to permit the petitioner/accused to take assistance of the lawyer during the course of investigation.

10. It is made clear that the petitioner/accused shall cooperate with the Investigating Officer for the investigation and shall be available to the Investigation Officer as and when required and also provide the information/ documents as sought by the Investigation Officer to conclude the investigation.

11. If the petitioner/accused fails to cooperate with the Investigating Officer for investigation, the Investigating

[1](2014) 8 SCC 273

Officer is at liberty to take action against petitioner/accused in accordance with law.

12. Subject to the above directions, the Criminal Petition is allowed. However, it is made clear that any observations or findings made by this Court in the present order shall not, in any manner, influence either the investigating agency during the course of investigation or the trial Court during the trial or in any other proceedings. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

**JUSTICE NARSING RAO NANDIKONDA**

Date: 25.11.2026
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