IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE ELEVENTH DAY OF NOVEMBER TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 18655 OF 2026

Between:

Mir Shoaib Ali, S/o. Mir Shoukat Aged about 36 years, Occ: Homeopathy Business, R/o. H.no.10-1-18/14/3/1, Flat no. 201, 2nd floor, Grace Elite Apartment, Shayam Nagar, AC Guards, Hyderabad.

...PETITIONER/ACCUSED

AND

1. State of Telangana, Public Prosecutor, High Court for the State of Telangana, Hyderabad.
2. MA Basith, S/o. Late Abdul Mannan, Aged about 80 years, Occ: Retired, R/o.H.no.8-1-40/A/177/2, Samtha Colony, Toli Chowki, Hyderabad

...RESPONDENTS/(DEFACTO COMPLAINANT)

Petition under Section 528 of BNSS, praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the proceedings in Cr.no. 224 of 2026, dated. 23.10.2026 on the file of the Masab Tank Police Station, Hyderabad District against the Petitioner/Accused in the interest of the justice.

I.A. NO: 2 OF 2026

Petition under Section 528 of BNSS, praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to

Stay of all further proceedings in Cr.No. 224 of 2026, dated 23.10.2026 on the file of the Masab Tank Police Station, Hyderabad District including arrest of the petitioner/accused, pending disposal of the above main Criminal Petition

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Abdul Kabeer, Advocate for the Petitioner and of Sri. M.Vivekananda Reddy, the Assistant Public Prosecutor for the State of Telangana on behalf of the Respondent No.1 and None appeared for Respondent no.2 .

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.18655 of 2026

CNR No.HBHC010776152026

Date: 11.11.2026

Between:

Mir Shoaib Ali

...Petitioner

AND

The State of Telangana, and another.

...Respondents

ORDER

This Criminal Petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (for short 'the BNSS') by the petitioner/accused seeking to quash the proceedings in Crime No.224 of 2026 of Masab Tank Police Station, Hyderabad District, registered for the offences punishable under Sections 131, 351 (2), 352 and 126 (2) of the Bharatiya Nyaya Sanhita, 2023 (for short 'the BNS').

2. Heard Mr.Abdul Kabeer, learned counsel for the petitioner and Mr.M.Vivekananda Reddy, learned Assistant Public Prosecutor, appearing for respondent No.1.

3. With their consent, the criminal petition is disposed of at the stage of admission.

4. Learned counsel for the petitioner submits that the petitioner has not committed any offence and has been falsely implicated in the present crime. The allegations levelled in the complaint are purely civil in nature in respect of the landlord-tenant relationship, especially with regard to the non-payment of rent due and payable. He further submits that respondent No.2 ought to have approached the competent civil Court; however, instead, he filed the present complaint by giving a criminal colour. Hence, continuation of the proceedings against the petitioners is a clear abuse of the process of law. He further submits that the offences alleged against the petitioners are punishable with imprisonment for a term of less than seven years. However, the Investigating Officer, without following the mandatory procedure prescribed under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhitha, 2023 (for short 'BNSS') and the guidelines issued by the Apex Court in ***Arnesh Kumar Vs. State of Bihar***[1], is proceeding with the investigation and the same is contrary to law.

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[1] (2014) 8 SCC 273

5. *Per contra*, learned Assistant Public Prosecutor submits that there are specific allegations levelled in the complaint against the petitioner. The said allegations disclose cognizable offences, and the investigation is under progress. At this stage, the petitioner is not entitled to seek quashing of the proceedings. However, the offences levelled against the petitioner are punishable with imprisonment of less than seven years. The Investigating Officer had already issued a notice under Section 35(3) of the BNSS to the petitioner on 26.10.2026. On such notice, the petitioner is entitled to put forth his grievances by raising all the pleas available to him. On the other hand, the petitioner has approached this Court and filed the present criminal petition. Hence, the petitioner is not entitled to seek any relief at this stage.

6. By way of reply, learned counsel for the petitioner submits that, as on date, the petitioner has not received notice under Section 35(3) of the BNSS.

7. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that the dispute between the petitioner and respondent No.2 relates to a landlord-tenant relationship, and disputes are pending between them. The

petitioner has approached the IX Junior Civil Judge, City Civil Court at Hyderabad, and filed a suit in O.S.No.2322 of 2026 against one Abdul Wasay, who is none other than the son of the *de facto* complainant, seeking a perpetual injunction. The said suit is pending in respect of the very same schedule property between the petitioner and respondent No. 2, arising out of the rental agreement dated 01.06.2025. The offences levelled against the petitioner are punishable with imprisonment of less than seven years. Even according to the learned Assistant Public Prosecutor, the Investigating Officer had already issued a notice under Section 35(3) of the BNSS to the petitioner on 26.10.2026, and the same was disputed by the learned counsel for the petitioner.

8. Taking into consideration the peculiar facts and circumstances of the case and the submissions made by the respective parties, the Investigating Officer is directed to serve notice under Section 35(3) of the BNSS on the petitioner on or before 17.11.2026, if not already served, and to follow the guidelines formulated by the Hon'ble Apex Court in ***Arnesh Kumar's case***. The petitioner is entitled to put forth his grievances by raising all the pleas available to him. He is also entitled to submit any documents in his custody to the Investigating Officer. The petitioner shall cooperate with the investigation.

9. Accordingly, the Criminal Petition is disposed of.

Miscellaneous applications, pending if any, shall stand closed.

SD/- T SRINIVASA REDDY,
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The VI Additional Chief Judicial Magistrate at Nampally, Hyderabad.
2. The Station House Officer, Masab Tank Police Station, Hyderabad District.
3. Two CCs to Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to SRI. Abdul Kabeer, Advocate [OPUC]
5. Two CD Copies

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HIGH COURT

DATED: 11/11/2026



ORDER

CRLP.No.18655 of 2026

DISPOSING OF THE CRIMINAL PETITION

(8)
OBR
13-11-26