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

MONDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE TANGIRALA MADHAVI DEVI

WRIT PETITION NO: 38576 OF 2026

Between:

1. Banothu Bhima alias B.Barnabas, S/o. Passpullaldaiah, S/o. Surya, Aged about 42 years, Occ Pastor, R/o. 1-1-574 (Hebron Church) Jawahar Nagar, Golconda X Roads, Musheerabad, Hyderabad, Telangana-500020.
2. Benjamin alias Gaddam Chandra Prakash, S/o. G.Krishna, Age 27, Occ unemployed, H.No.22-01-AY0020, Ayyapa Nagar, Palvancha, PO Paloncha, Bhadradi Kothagudem district, Telangana-507115.

AND **...PETITIONERS**

1. The State of Telangana, Rep. by its Principal Secretary, Home Department, Secretariat, Hyderabad, TG
2. The Station House Officer, Musheerabad Police Station, Chikkadpally division, Hyderabad district, TG
3. Sri Ragi Verra Chary, S/o. Naraiah, Age 54 years, R/o. Hermon Churuch, Flat No.401, Babu khan Aneesh Towers, Bhoigouda Road, MIGH colony, Walker Town, Padma Rao Nagar, Secunderabad. N/o. Ashwapur, Bhadradri Kothagudem District, and H.No.1-4-1010, Golconda X Roads, Musherrabad, Hyderabad, Telangana-500020

...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 an appropriate Writ Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd Respondent in trying to arrest the Petitioners/A2 and A3 highhandedly in connection with FIR No.413 of 2026 dated 22.10.2026 on the file of 2nd respondent Police Station without following the

procedure contemplated under Sec35(3) of the Bharatiya Nagarik Suraksha Sanhita 2023 (corresponding to Sec.41-A Cr.P.C) and in contrary to the guidelines issued by the Hon'ble Apex Court in Arnesh Kumar V/s State of Bihar as illegal arbitrary unconstitutional and violation of Article 14 & 21 of Constitution of India and consequently direct the 2nd respondent to follow the procedure contemplated U/Sec35(3) BNSS (Sec41-A Cr.P.C) in relation to the Crime FIR No.413 of 2026 dated 22.10.2026 as against the Petitioners/A2 and A3.

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 2nd Respondent to follow the procedure contemplated U/Sec 35(3) BNSS (Sec41-A Cr.P.C) and guidelines issued by the Hon'ble Apex Court in Arnesh Kumar vs State of Bihar in relation to FIR No.413 of 2026 dt. 22.10.2026 registered against the petitioners/A2 and A3 on the file of 2nd respondent's police station pending disposal of the above writ petition.

Counsel for the Petitioner: SRI V.RAGHUNATH, Sr. COUNSEL, REP.
Ms. BANDARI DIVYA

Counsel for the Respondent No.1 & 2: SRI D.PRADEEP, AGP FOR HOME

Counsel for the Respondent No.3: SRI S.CHANDRA MOHAN REDDY

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SMT. JUSTICE TANGIRALA MADHAVI DEVI

WRIT PETITION NO.38576 OF 2026

(CNR No.HBHC010793322026)

DATED : 23.11.2026

Between:

Banothu Bhima alias B. Barnabas and another

... Petitioners

AND

The State of Telangana, rep. by its Principal Secretary, Home Department, Secretariat, Hyderabad, T.G. and others

... Respondents

O R D E R

Alleging that respondent No.2 is trying to arrest the petitioners/A2 and A3 in connection with FIR No.413 of 2026 dt.22.10.2026 on the file of Musheerabad Police Station, Chikkadpally Division, Hyderabad District without following the procedure

contemplated under Section 35(3) of BNSS, this Writ Petition has been filed.

2. Learned Senior Counsel Sri V. Raghunath appearing for the petitioners submitted that the petitioners are A2 and A3 in FIR No.413 of 2026 and the punishment for the offences under the provisions of law invoked in the subject FIR prescribe less than seven years and therefore, the petitioners should be issued a notice under Section 35(3) of BNSS and the petitioners are ready and willing to cooperate with the investigation and also appear before the police as and when required.

3. Learned Assistant Government Pleader for Home Sri D. Pradeep, on written instructions, submitted that the offences alleged in the subject FIR are grave and serious in nature and the allegations are not confined to the mere unauthorised access to a mobile phone or copying of certain audio recordings, but they also relate to circulation of the complainant's private audio recordings through WhatsApp group "HEBRON NEWS" and the YouTube channels "Hebron news (@Hebronhyderabadissues)" and "HEBRON OFFICIAL UPDATES (@hebronofficial-75621)". Therefore, according to him, the nature and volume of the data allegedly copied and the manner in which it was obtained and the subsequent use

and circulation of the same demonstrate the seriousness of the allegations and therefore, following the procedure under Section 35(3) of BNSS at this stage without ascertaining the petitioners' role and also the electronic evidence being fully verified, may hamper the investigation. It is further submitted that the petitioners are alleged to have copied approximately 9,800 audio call recordings and have transferred the same to a pen drive and have handed it over to A1 and therefore, the investigation into the electronic evidence and the complete chain of transfer and circulation is still in progress and without arrest of the petitioners/A2 and A3, it may hamper the investigation. Copies of the FIR and remand report in respect of A1 are also filed along with the written instructions.

4. Learned Senior Counsel appearing for the petitioner, however, submitted that the complainant himself is involved in various complaints (around 39) and that he was also convicted in one of the cases by the Hon'ble Supreme Court and therefore, the record of the complainant has to be seen. However, he submits that as per the statutory requirement, since the punishment prescribed for the subject offences is less than 7 years, the respondent police have to follow the guidelines issued by the

Hon'ble Supreme Court of India in the case of *Arnesh Kumar Vs. State of Bihar and others (AIR 2014 SC 2756)*.

5. Having regard to the rival contentions, this Court finds that the FIR has been registered under Sections 303(2), 308(2), 351(2) read with Section 3(5) of BNS and Sections 66, 66B, 66C read with Section 43 of IT Act and the punishment prescribed thereunder is less than 7 years and therefore, as directed by the Hon'ble Supreme Court in the case of *Arnesh Kumar Vs. State of Bihar and others (AIR 2014 SC 2756)*, a notice under Section under Section 35(3) of BNSS has to be issued. However, in case, the respondent police require the arrest of the petitioners, then they have to follow the due procedure prescribed under Section 35(1) of BNSS. It is seen from the written instructions given by the respondent police that the police require the presence of A2 and A3 for further investigation and therefore, if the respondent police are inclined to arrest the petitioners, the police are required to follow due process under Section 35(1) of BNSS.

6. Therefore, the respondent police are directed to strictly follow the procedure laid down by law and the guidelines issued by the Hon'ble Supreme Court in the case of *Arnesh Kumar Vs. State of Bihar and*

others (AIR 2014 SC 2756) and the petitioners are also directed to appear and cooperate with the police if police require them to appear for issuance of notice under Section 35(3) of BNSS. The respondent police are directed to ensure that there is no further circulation of the objectionable data copied and uploaded in the social media platforms on a representation being made by the petitioners giving the details.

7. With the above directions, the Writ Petition is disposed of. No order as to costs.

8. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed.

SD/- M.OSMAN ALI BAIG
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Home Department, Secretariat, Hyderabad, State of Telangana.
2. The Station House Officer, Musheerabad Police Station, Chikkadpally Division, Hyderabad District, Telangana.
3. One CC to Ms. BANDARI DIVYA, Advocate [OPUC]
4. One CC to SRI S.CHANDRA MOHAN REDDY, Advocate [OPUC]
5. Two CCs to GP FOR HOME, High Court for the State of Telangana, at Hyderabad [OUT]
6. Two CD Copies

BSR

CC TODAY

HIGH COURT

DATED: 23/11/2026



ORDER

WP.No.38576 of 2026

DISPOSING OF THE WRIT PETITION,

WITHOUT COSTS

9
MT
23/11/26