

APHC010084942025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3369]

THURSDAY, THE EIGHTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL PETITION NO: 1829/2025

Between:

Vallabhneni Vamsi Mohan

...PETITIONER/ACCUSED

AND

The State Of Andhra Pradesh

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1.V.Devi Satya Sri

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

The Court made the following ORDER:

1. The petitioner/accused has filed this Criminal Petition by invoking the provisions of Sections 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 [for short, "BNSS"), seeking pre-arrest bail in connection with Crime No.42 of 2024 of Gannavaram Police Station, Krishna District, involving the offences punishable under Section 326 r/w 34 of the Indian Penal Code, 1860 (referred to as the 'I.P.C.').

2. The prosecution's case, in brief, is that this case pertains to voluntarily causing grievous hurt, reported on 21.01.2024 at 18:00 hrs by complainant Kasaraneni Venkata Pandu Ranga Rao. The incident occurred the same day at 15:00 hrs at Park Elite Hotel, Kesarapalli Village, Gannavaram Mandal,

Krishna District. A real estate businessman, the complainant, was contacted a month prior by an individual identifying himself as Naresh, CEO of Bramara Real Estate, seeking 50–100 acres of land. On 21.01.2024, the complainant met Naresh at Park Elite Hotel, accompanied by his friend Sudheer. While waiting, two men arrived in an Innova car (AP09BG6869), held the complainant, and assaulted him with baseball bats and sticks, causing multiple fractures and injuries. He was admitted to Pinnamaneni Hospital for treatment. Based on his statement recorded by HC 3033, a case was registered as Cr. No. 42/2024 under Section 326 r/w 34 IPC. The I.O. inspected the crime scene, prepared necessary documentation, and examined six witnesses under Section 161 Cr.P.C. The medical officer confirmed the injuries were grievous. On 01.02.2024, A2 to A5 were apprehended at Kesarapalli village and confessed during questioning. Weapons and the vehicles used were seized in the presence of mediators. A1 was arrested on 06.02.2024. The investigation was completed, and a final charge sheet was submitted before the VIII Addl. Judicial Magistrate of First Class, Gannavaram.

3. I have heard Sri C. Raghu, learned Senior Counsel for the petitioner and the learned Public Prosecutor, representing the Respondent-State. Both sides reiterated their submissions on par with the contentions presented in the petition.

4. Learned counsel for the petitioner contends that the investigation concluded with a final report (CF.No.2488/2024) filed before the VIII Additional Judicial Magistrate, Gannavaram, on 28.08.2024, in which the petitioner was not named. Ten months later, following a regime change, the de facto complainant submitted a representation on 06.10.2024, alleging improper investigation, suggesting political vendetta rather than a genuine grievance. The complainant presented four conflicting versions of the incident (F.I.R., 161 CrPC statement, SP representation, and re-examination), undermining his credibility. The petitioner's name does not appear in any initial report, and no

material links him to the offence. His alleged involvement is speculative and politically motivated. As a former MLA, the petitioner is being targeted due to political rivalry. The injuries sustained by the complainant were minor and non-fatal, negating any intent to kill, and the learned Magistrate correctly declined to take cognizance under Section 307 IPC. The complainant, leveraging political influence, is attempting to manipulate the investigation. No new material has surfaced to justify reopening the case. Prior cases against the petitioner were either compromised, referred, or ended in discharge, and pending cases are politically driven.

5. On the other hand, the learned Public Prosecutor representing the respondent-State opposed the grant of anticipatory bail, citing the ongoing investigation, the petitioner's involvement in multiple cases, and the risk of tampering with evidence and hindering the investigation if released.

6. In ***Mahipal V. Rajesh***¹, the Hon'ble Apex Court held that it is necessary for the Court while considering a bail application, to assess whether, based on the evidentiary record, *prima facie* or reasonable grounds exist to believe that the accused had committed the crime. It is settled law that when granting bail, a detailed examination of the evidence and elaborate documentation of the case's merits has not to be undertaken. That did not mean that whilst granting bail, some reasons for *prima facie* concluding why bail was being granted did not have to be indicated.

7. It is settled law that while considering the prayer for grant of anticipatory bail, the accusation's nature and gravity and the accused's exact role must be properly comprehended before arrest is made. If there is some doubt as to the genuineness of the prosecution and the normal course of events, the accused is entitled to an order of anticipatory bail. The Court must adequately exercise its jurisdiction to protect the personal liberty of a citizen. It is also a well-accepted principle that bail is the rule and the jail is the exception. Arrest

¹ (2020) 2 SCC 118

should be the last option, and it should be restricted to those exceptional cases where arresting the accused is imperative based on the facts and circumstances of that case.

8. This Court views the power to authorize detention as a very solemn function. It affects the liberty and freedom of citizens and needs to be exercised with great care and caution. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool for police officers who lack sensitivity or act with oblique motives.

9. The law presumes an accused to be innocent till his guilt is proven. As a presumably innocent person, he is entitled to all the fundamental rights, including the right of liberty guaranteed under Article 21 of the Constitution of India.

10. As evident from the record, the statement of the victim/de facto complainant was recorded based on hospital intimation while he was undergoing treatment on 21.01.2024, between 16:30 and 17:30 hours. The duty doctor certified that the patient was conscious and fit to provide a statement. In his statement, the de facto complainant furnished all relevant details of the incident, including the registration numbers of the three vehicles involved. The casualty officer who attended to him issued a wound certificate, opining that the injuries sustained were grievous. During the investigation, on 06.02.2024, A.1 was arrested and remanded. A.2 to A.5 were also apprehended and arrested subsequently. As rightly submitted by the learned counsel for the petitioner, the de facto complainant has made inconsistent and conflicting statements regarding the incident. Notably, in the initial report, there is no mention of the petitioner's name. The victim's statements also suggest a pre-existing animosity towards the petitioner arising out of political differences. It is only in the statement recorded on 08.10.2024 that LW.1 refers to the petitioner's alleged involvement. This Court finds merit in the petitioner's contention that the petitioner may have been implicated due to

subsequent political developments. Had the petitioner indeed been involved, his name could reasonably have been expected to appear in the earlier report, especially considering that the complainant, while under medical treatment, was still able to recount the sequence of events and recall the vehicle registration numbers in detail. The absence of an explanation as to why the petitioner was not initially named casts a prima facie doubt on the later statement implicating him.

11. The learned Senior Counsel appearing for the petitioner contends that the Investigating Officer conducted a reinvestigation based on concocted facts, particularly after a change in the Government, and that he revised the statements of all the witnesses who were initially examined. He submits that such a perfunctory and politically influenced investigation, which effectively revises the entire course of the criminal proceedings, is vitiated in law. In support of this contention, he placed reliance on the decision of the Hon'ble Supreme Court in ***Devineni Avinash & Others v. The State of Andhra Pradesh*** (Final Order dated 25.02.2025 in SLP (Crl.) Nos. 12659–12662 of 2025), wherein, it observed that *“the apprehension of arrest has come after a period of more than three years, and according to the petitioners, the reason for the same is the change in the Government in Andhra Pradesh. It has been argued before us that it is not simply a case of slow investigation but it is a case of no investigation at all. It is a clear violation of the provisions of CrPC and all the relevant laws which are applicable..... admittedly no efforts were made at the hands of the complainant to move before the High Court in a Writ Petition seeking proper investigation in the case.”*

12. Though the observations made in the aforesaid decision are indeed applicable to the facts of the present case for the purpose of considering the petitioner's application, they do not lend support to the submission of learned counsel for the petitioner that the present investigation amounts to a reinvestigation.

13. The learned Public Prosecutor rightly submits that merely because the final report submitted by the investigating authorities was returned, the investigating agency is not barred from conducting further investigation into the offence, even after having previously forwarded a report under sub-section (2) of Section 173 of the Bharatiya Nyaya Sanhita (BNSS). In support of his contention, he relied on the decision of the Hon'ble Supreme Court in ***State of T.N. v. Hemendhra Reddy***², wherein it held that:

84. Thus, a conspectus of the aforesaid decisions of this Court rendered in cases where final reports (closure reports) had already been submitted and accepted makes the position of law very clear that even after the final report is laid before the Magistrate and is accepted, it is permissible for the investigating agency to carry out further investigation in the case. In other words, there is no bar against conducting further investigation under Section 173(8)CrPC after the final report submitted under Section 173(2)CrPC has been accepted. It is also evident, that prior to carrying out a further investigation under Section 173(8)CrPC, it is not necessary for the Magistrate to review or recall the order accepting the final report.

85. We may summarise our final conclusion as under:

85.1. Even after the final report is laid before the Magistrate and is accepted, it is permissible for the investigating agency to carry out further investigation in the case. In other words, there is no bar against conducting further investigation under Section 173(8)CrPC after the final report submitted under Section 173(2)CrPC has been accepted.

85.2. Prior to carrying out further investigation under Section 173(8)CrPC it is not necessary that the order accepting the final report should be reviewed, recalled or quashed.

85.3. Further investigation is merely a continuation of the earlier investigation, hence it cannot be said that the accused are being subjected to investigation twice over. Moreover, investigation cannot be put on a par with prosecution and punishment so as to fall within the ambit of clause (2) of Article 20 of the Constitution. The principle of double jeopardy would, therefore, not be applicable to further investigation.

85.4. There is nothing in CrPC to suggest that the court is obliged to hear the accused while considering an application for further investigation under Section 173(8)CrPC.

² (2023) 16 SCC 779

14. In order to duly consider the submission made on behalf of the petitioner, namely, whether the Investigating Officer conducted a further investigation or a reinvestigation, I have carefully examined the material placed on record. It is evident that, pursuant to the representation submitted by the de facto complainant, the Investigating Officer reexamined the complainant as well as some other witnesses. From the record, it is apparent that based on the statement of LW.7, which indicated that A.2 to A.6, along with two others, had checked into a hotel on 20.01.2024 and checked out on 22.01.2024, A.7 and A.8 were subsequently added. Additionally, LW.8 and LW.9 were examined, as they had accompanied LW.2 while shifting the de facto complainant to the hospital. To establish the presence of the petitioner's henchmen at the scene of the offence, the statements of LWs.10 and 11 were recorded. Relying on this material, A.2 to A.15 were added, and the section of law invoked was altered from Section 326 IPC to Section 307 IPC. Further, the Investigating Officer examined LW.12, LW.13, and LW.14 to substantiate the stay of A.2 to A.6 and two others at the hotel during the aforementioned period. He also recorded the statement of LW.16, the store manager who had provided a SIM card to A.1. The aforementioned material clearly indicates that the Investigating Officer has undertaken further investigation in the matter. I find no merit in the submission of learned counsel for the petitioner that the exercise was merely a reexamination. On the contrary, the record establishes that a substantive further investigation has been conducted.

15. As evident from the record, the de facto complainant is stated to have sustained injuries on non-vital parts of the body, namely the left knee, left elbow, left ankle, and below the right knee. It is submitted that since the injuries are not on vital organs, it may be reasonably inferred that there was no intention to kill and had the accused intended to commit murder, they would likely have targeted vital areas such as the head or chest. Furthermore, A.7 to A.12, A.14 and A.15 were arrayed as accused persons approximately 15 months after the registration of the crime. At the time of remanding A.7 to

A.12, A.14 and A.15, the learned Magistrate expressed doubt as to whether the offence under Section 307 of the IPC was attracted, noting that the findings of the investigation did not support the applicability of that charge.

16. The learned public prosecutor representing the Respondent-State contends that a charge sheet was filed against A.1 to A.6 on 08.02.2024 for the offences under Sections 326, 120(B) r/w 34 IPC, registered under C.F.No.537 on 09-02-2024. The Trial Court, however, did not take cognizance and returned the charge sheet on 29.02.2024 with remarks. After compliance with the remarks, the charge sheet was resubmitted on 01.03.2024 under C.F.No.967. It was returned again on 27.03.2024 with additional remarks, requiring clarification regarding the visibility of an Innova car (AP 09 BG 6869) in the mediator report, and the charge sheet was resubmitted on 28.08.2024 under C.F.No.2488. However, it was returned once more on 20.09.2024 with objections that were not addressed, and the Trial Court has yet to take cognizance

17. Subsequently, the victim submitted a fresh representation dated 06.10.2024 to the Superintendent of Police, Krishna District, Machilipatnam, requesting further investigation due to alleged lapses in the initial investigation. Acting on directions from senior officers, further investigation was undertaken and found that charge sheet was filed by doing peripheral investigation only, and included Sections 307, 120B, and 147, read with 149 of the IPC. During the investigation, at the time of arrest of Accused Nos.7 to 12, 14, and 15, their confession statements were recorded on 19.11.2024, wherein they disclosed that the offence against LW.1 was committed at the instigation of the petitioner/accused.

18. On behalf of the petitioner, it is submitted that Accused Nos. 1 to 6, named explicitly by the de facto complainant, have already been remanded and released on bail. Similarly, Accused Nos. 7 to 12, 14, and 15—implicated nearly ten months later, have also been granted bail. In light of the release of

the prime accused, this Court finds that custodial interrogation of the petitioner may be unnecessary. As previously noted, the case against the petitioner is primarily based on the confession statements of the co-accused, who are already on bail. It is further submitted that the mobile number used under the pretext of a real estate business, which allegedly lured the petitioner to the scene of the offence, still needs to be verified. This Court has been informed that the petitioner has been in judicial custody since 13.02.2025 in connection with Cr. No.137 of 2023. As rightly pointed out by the petitioner's counsel, there does not impede the prosecution from verifying electronic data, CCTV footage, or any digital evidence available concerning the alleged offence. Given that the case against the petitioner relies solely on the confession statements of the co-accused, who have since been released, the petitioner's custody is not warranted for investigation.

19. The initiation of the present criminal proceedings appears to be inextricably linked to political rivalry between opposing groups. This underlying motive is evident from the contents of the complainant's statement. It is noteworthy that, despite the alleged political differences between the complainant and the petitioner, the petitioner's name was conspicuously omitted from the original First Information Report (F.I.R.). This omission implies that there were no direct or immediate allegations against the petitioner at the outset of the case. The petitioner's name only emerged through a subsequent representation, raising significant concerns about the accusations' credibility. The petitioner's counsel has persuasively argued that the delayed and seemingly retrospective inclusion of the petitioner's name casts substantial doubt on the truthfulness of the complaint. In the realm of criminal jurisprudence, such a material omission at the initial reporting stage, particularly in cases where political differences may be a factor, serves as a pertinent consideration in favour of the petitioner.

20. The F.I.R., in a criminal case, is a vital and valuable piece of evidence, though it may not be substantive. The object of insisting upon prompt lodging

of the F.I.R., with respect to the commission of an offence, is to obtain early information regarding the circumstances in which the crime was committed. If there is a delay in lodging the F.I.R., it loses the advantage of spontaneity; danger creeps in of the introduction of a coloured version, exaggerated account or concocted story because of many consultations/ deliberations. The promptness in lodging the F.I.R. is an assurance regarding the truth of the informant's version. A promptly lodged F.I.R. reflects the firsthand account of what happened and who was responsible for the offence. (In this regard, reference can be made to ***Thulia Kali V. State of Tamil Nadu***.³)

21. Though the delay may not be fatal to the criminal proceedings as it always depends upon the facts and circumstances of each case, this Court views that the Petitioners make at least a case out for grant of anticipatory bail U/Sec.438 of Cr.P.C.

22. The existence of the power to arrest is one thing; the justification for exercising it is quite another. Apart from the power to arrest, the police officers must be able to justify the reasons thereof. No arrest can be made routinely on a mere allegation of the commission of an offence made against a person. It would be prudent and wise for a police officer to make no arrest without reasonable satisfaction being reached after some investigation into the genuineness of the allegation. (In this regard, a reference can be made to ***Arnesh Kumar V. State of Bihar***.⁴)

23. It is also a well-accepted principle that bail is the rule and the jail is the exception. The Hon'ble Supreme Court in ***P.Chidambaram V. Directorate of Enforcement***⁵ Considering all the earlier judgments, it was observed that the basic jurisprudence relating to bail remains the same in that the grant of bail is the rule, and refusal is the exception to ensure that the accused has the opportunity to secure a fair trial.

³ (1972) 3 SCC 393

⁴ (2014) 8 SCC 273

⁵ (2019) 9 SCC 66

24. In *Siddharam Satlingappa Mhetre V. State of Maharashtra*⁶, the Hon'ble Apex Court laid down certain factors and parameters that must be considered while dealing with anticipatory bail. It further held as follows:

113. Arrest should be the last option, and it should be restricted to those exceptional cases where arresting the accused is imperative based on the facts and circumstances of that case. The Court must carefully examine the entire available record, particularly the allegations directly attributed to the accused, which are corroborated by other material and circumstances on record.

25. As the material on record shows that there are admittedly political differences between the parties, the possibility of roping the petitioner into the crime cannot be ruled out. The ex-MLA, petitioner has strong societal roots, making it highly unlikely that he would attempt to flee from justice. The facts do not warrant custodial interrogation of the petitioner in the nature of the accusations. The petitioner expressed willingness to cooperate with the investigation agency. The likelihood of levying accusations of harm or embarrassment through potential arrest is not improbable. Thus, there is a prima facie case in favour of the petitioner. Granting anticipatory bail to the petitioner would not impede the ongoing investigation.

26. Upon careful review of the available material, as there is no risk of interference with the ongoing investigation by the petitioner as the investigation is already completed and the charge sheet is filed, but it is returned, this Court finds that anticipatory bail can be granted to the petitioner/accused under certain conditions:

- (i) The petitioner/accused is hereby directed to surrender before the Station House Officer, Gannavaram Police Station, Krishna District, within two (2) weeks of being released on bail concerning other pending cases while being held in judicial custody for ongoing matters.

⁶ (2011) 1 SCC 694

- (ii) Upon his surrender, he shall be released on bail upon furnishing a personal bond for Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties for a like sum each to the satisfaction of the concerned Investigating Officer.
- (iii) Following his release, the petitioner shall appear before the concerned Investigating officer as and when his presence is required.
- (iv) The petitioner/accused shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case to dissuade him/her from disclosing such facts to the Court or any Investigating or Police Officer and shall cooperate with the investigating officer.

27. It is explicitly clarified that the observations made in this Order are preliminary and pertain solely to the decision on the present application without indicating a stance on the case's merits. The Investigating Agency is affirmed to have the freedom to investigate without being influenced by the observations in this Order.

28. The Criminal Petition is ***allowed***, accordingly.

Miscellaneous applications, pending if any, in this petition shall stand closed.

JUSTICE T. MALLIKARJUNA RAO

Date: 08.05.2025

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THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL PETITION No.1829 OF 2025

Date: 08.05.2025

SAK