



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI



FRIDAY, THE NINETEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

AND

THE HONOURABLE SMT JUSTICE V.SUJATHA

CRIMINAL PETITION Nos.1461 of 2025, 7844 of 2024,

2147,2274,2697,3344 and 3454 of 2025

CRIMINAL PETITION NO: 1461 OF 2025

Between:

1. Smt Vidadala Rajani, W/o Kumara Swamy Vidadala, Aged about 34 years, Former Minister, R/o 36-137, Main Road, Purushothama Patnam, Chilakaluripet.
2. Nagisetty Jaya Phanindra, S/o Srinivasa Rao Aged about 35 years, R/o 7-130, Gandhipet, Chilakaluripet.
3. Rama Krishna, S/o Anjaiah, aged about 40 years, R/o 2-71 Vemavaram, Prakasham.

...Petitioners/A-2 & A-4

AND

1. The State of Andhra Pradesh, Rep. by its Public Prosecutor, High Court at Amaravathi, Through S.H.O., Chilakaluripeta Town P.S., Guntur District.
2. Pilli Koteswar Rao, S/o Pilli Subba Rao, Aged about 38 years, R/o D.No 11-428 East Mallapali Village, Chilakaluripeta.

...Respondents/Defacto Complainant

2

Petition under Section 438 of Cr.P.C U/s 482 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to enlarge the Petitioners/Accused on bail in the event of their arrest by the Respondent Chilakaluripet Town P.S., Guntur District in Crime No.39/2025 dated 06.02.2025

IA NO: 1 OF 2025

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 grant interim bail to the Petitioners/Accused by directing the Respondent Chilakaluripet Town P.S., Guntur District not to arrest the petitioners in Crime No.39/2025 dated 06.02.2025 till final adjudication of the criminal petition.

Counsel for the Petitioners: Sri O Manohar Reddy, Senior Counsel representing Sri S Dushyanth Reddy

Counsel for the Respondent No.1 : Sri Marri Venkata Ramana, Additional Public Prosecutor assisted by Sri A.Rohit, Assistant Public Prosecutor

Counsel for the Respondent No.2 : Sri V V Lakshmi Narayana

APHC010492132024



CRIMINAL PETITION NO: 7844 OF 2024

Between:

K C Krishna Reddy, S/o Late K.C.Rami Reddy, Aged about 64 years, R/o. D. No. 26/4/1628/A1, Jayan Tej Nilayam, SBI Colony, Melapuram, HindupurTown and Mandal, Sri Sathya Sai District Andhra Pradesh

...Petitioner/Accused No.1

AND

1. The State of Andhra Pradesh, (Dharmavaram I Town Police Station, Sri Satya Sai District), Represented by its Public Prosecutor, High Court of Andhra Pradesh, At Amaravati.

(Extra copy Served to the Public Prosecutor for the purpose of notice to the Victim (Second Respondent) under Section 15A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989)

....Respondent

2. Birru Rajasekhar, S/o.B.Rajanna, Aged about 54 years, Occ Agriculture, R/o. D.No.1-11-175, Abaadpet, Hindupur, Sri Satya District-515671.

...Respondent/Complainant

Petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita Cr.P.C, 438 of Criminal Procedure Code 1973 praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to direct the First Respondent Police to enlarge the Petitioner/Accused No.1 (K.C.Krishna Reddy) on bail in the event of his arrest in connection with FIR (Crime) No. 103 of 2024 of Dharmavaram I Town Police Station, Sri Satya Sai District, Andhra Pradesh

IA NO: 1 OF 2024

Petition under Section 482 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant interim anticipatory bail to the Petitioner/ Accused No.1, in the event of his arrest in connection with FIR (Crime) No. 103 of 2024 of Dharmavaram I Town Police Station, Sri Satya Sai District, Andhra Pradesh pending disposal of the present criminal petition.

**Counsel for the Petitioner: Sri O Manohar Reddy, Senior Counsel
representing Sri M R K Chakravarthy**

Counsel for the Respondent No.1 : Sri Marri Venkata Ramana, Additional Public Prosecutor assisted by Sri A.Rohit, Assistant Public Prosecutor

Counsel for the Respondent No.2 : Sri Abdul Saleem

APHC010102522025



CRIMINAL PETITION NO: 2147 OF 2025

Between:

U Jeevan Reddy, S/o Venkata Reddy, Aged about 36 years, R/o Manesamudram village, Hindupur Town and Mandal, Sri Satya Sai District.

...Petitioner/Accused

AND

The State of Andhra Pradesh, Rep. through Public Prosecutor, High Court of Andhra Pradesh, Amarvathi, Guntur District.

...Respondent

Petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita Cr.P.C, Old Section 438 of Criminal Procedure Code, 1973 praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to enlarge the Petitioner on bail in the event of his arrest in connection with F.I.R.No.21 of 2025 dated 18/02/2025 on the file of the Hindupur Rural Police Station, Sri Satya Sai District for the alleged offences punishable under Sections 109(1), 115(1), 351(2) BNS, 3(1)(s), 3(2)(v) SC ST POA ACT

Counsel for the Petitioner: Sri O Manohar Reddy, Senior Counsel representing Sri M R K Chakravarthy

**Counsel for the Respondent : Sri Marri Venkata Ramana, Additional
Public Prosecutor assisted by Sri A.Rohit, Assistant Public Prosecutor**

APHC010107772025



CRIMINAL PETITION NO: 2274 OF 2025

Between:

Volupalli Mohan Ranga Rao, S/o.V.Tata Rao, aged 48 years,
Occ.Business; R/o.D.No.11-73-4 Gannavaram, NTR District

...Petitioner/A-5

AND

The State of Andhra Pradesh, Station House Officer, Patamata Police
Station Vijayawada City, NTR District Rep.by public prosecutor High
Court, Amaravathi

...Respondent

Petition under Section 438/482(1) of BNSS 2023 praying that in the
circumstances stated in the Memorandum of Grounds of Criminal Petition, the
High Court may be pleased to release the Petitioner/A-5 on bail in the event
of his arrest in FIR No.86/2025 Dt. 12-02- 2025 on the file of the Station
House Officer, Patamata Police Station, Vijayawada City, NTR District,
Andhra Pradesh

**Counsel for the Petitioner: Sri O Manohar Reddy, Senior Counsel
representing Sri Kiran Tirumalasetti**

**Counsel for the Respondent : Sri Marri Venkata Ramana, Additional
Public Prosecutor assisted by Sri A.Rohit, Assistant Public Prosecutor**

**CRIMINAL PETITION NO: 2697 OF 2025****Between:**

Karubolu Anil Kumar, S/o K. Thammi Naidu, Aged 27 yrs, D.No.17-41, Kranthi Nagar, Hanumanth waka, near LV Prasad Eye Hospital, Govt Dairy Farm Visakhapatnam.

...Petitioner/Accused-1**AND**

The State of Andhra Pradesh, Through the S.H.O., of Muwalavanipalem P.S., Rep., by its Public Prosecutor High Court at Amaravathi.

...Respondent/Complainant

Petition under Section 482 of BNSS (438 of Cr.P.C) praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant an Anticipatory Bail to the petitioner/A-1 by directing the S.H.O., of Muwalavanipalem P.S., Visakhapatnam City to Release the Petitioner /A-1 in the event of his Arrest in connection with the Crime in F.I.R.No.316/2024 dt. 12/07/2024.

Counsel for the Petitioner: Sri O Manohar Reddy, Senior Counsel representing Sri Ravuri Leela Sai Sampath

Counsel for the Respondent: Sri Marri Venkata Ramana, Additional Public Prosecutor assisted by Sri A.Rohit, Assistant Public Prosecutor



CRIMINAL PETITION NO: 3344 OF 2025

Between:

Kakani Govardhan Reddy, S/o. Ramana Reddy, Aged about 60 years,
R/o. Podalakur Road, Nellore, SPSR Nellore District

...Petitioner/Accused A4

AND

The State of AP, Rep. by Public Prosecutor, High Court of Andhra Pradesh
At Amaravathi

...Respondent

Petition under Section 482 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to enlarge the Petitioner/Accused A4 on bail in the event of his arrest in Cr.No.24/2025 on the file of Podalakur Police Station, dated 16.02.2025 under Sections 447, 427, 379 r/w. 34 I.P.C, Sec. 3 PDPPA, Sec. 21 (1), 21 (4) of MMDARA, Sec. 120 (b), 109, 220, 506 I.P.C and Sec.3 & 5 of Explosive Substances Act.

IA NO: 1 OF 2025

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 grant interim anticipatory petitioner/Accused No.4 in the event of arrest of the petitioner in connection with Cr.No.24/2025 on the file of Podalakur Police Station, pending disposal of the main Criminal Petition.

IA NO: 2 OF 2025

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 permit the petitioner to amend the relief sought in the Anticipatory Bail in CrI.P.No.3344/2025 as "to enlarge the Petitioner/Accused A4 on bail in the event of his arrest in Cr.No.24/2025 on the file of Podalakur Police Station, dated 16.02.2025 under Sections 447, 427, 379 r/w. 34 I.P.C, Sec. 3 PDPPA, Sec. 21 (1), 21 (4) of MMDARA, Sec. 120 (b), 109, 290, 506 I.P.C, Sec.3 & 5 of Explosive Substances Act and u/s. 3(1) (r), 3 (2) (va) and 3 (2) (iii) of SC-ST (POA) Act" instead of "to enlarge the Petitioner/Accused A4 on bail in the event of his arrest in Cr.No.24/2025 on the file of Podalakur Police Station, dated 16.02.2025 under Sections 447, 427, 379 r/w. 34 I.P.C, Sec. 3 PDPPA, Sec. 21 (1), 21 (4) of MMDARA, Sec. 120 (b), 109, 220, 506 I.P.C and Sec.3 & 5 of Explosive Substances Act".

IA NO: 3 OF 2025

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 receive these additional grounds in I.A.No.1/2025 in CrI.P.No.3344/2025

**Counsel for the Petitioner: Sri O Manohar Reddy, Senior Counsel
representing M/s O M R Law Firm**

**Counsel for the Respondent : Sri Marri Venkata Ramana, Additional
Public Prosecutor assisted by Sri A.Rohit, Assistant Public Prosecutor**

**CRIMINAL PETITION NO: 3454 OF 2025****Between:**

Gunthanala Nagamani, W/o.Burgula Sai Prasad, Aged about 37 Years,
Occ. Journalist, H.No.28-799-IB, N.G.O.s Colony, Nandyala Nandyala
Mandal and District, Andhra Pradesh-518 501.

...Petitioner/Accused No.1

AND

1. The State of Andhra Pradesh, through Represented by Public Prosecutor, High Court of Andhra Pradesh.
2. Mollangi Elijebeth Rani, W/o. M. Abraham, Aged about 40 Years, Occ Repoter, R/o.28/759-4-4, N.G.O's Colony, Nandyala Town, Nandyala Mandal and District, Andhra Pradesh.

...Respondent/Defacto Complainant

Petition under Section 482 of BNSS Act, 2023 praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to direct the enlarged the Petitioner/Accused No.1 on bail in the event of her arrest in connection with Crime No.9/2025 on the file of Police Station, Nandyala -II Town, Nandyala Mandal and District.

**Counsel for the Petitioner: Sri O Manohar Reddy, Senior Counsel
representing Dr Geddada Srinivas**

**Counsel for the Respondents: Sri Marri Venkata Ramana, Additional
Public Prosecutor assisted by Sri A.Rohit, Assistant Public Prosecutor**

The Court made the following:

* HON'BLE SRI JUSTICE K.SURESH REDDY
&
HON'BLE SMT JUSTICE V.SUJATHA

CRIMINAL PETITIONS NOS.1461 of 2025, 7844 of 2024, 2147, 2274, 2697,
3344 and 3454 of 2025

% 19.09.2025

CRIMINAL PETITION NO.1461 of 2025

SMT. VIDADALA RAJANI W/O KUMARA SWAMY

... Petitioner

Vs.

\$ State of A.P. represented by its Public Prosecutor and another,

.... Respondent

! Counsel for the Petitioner : SRI S.DUSHYANTH REDDY,

Counsel for the Respondents : 1. V V LAKSHMI NARAYANA
2. PUBLIC PROSECUTOR

AND

CRIMINAL PETITION NO.7844 of 2024

K.C.Krishna Reddy S/o late K.C.Rami Reddy

... Petitioner

Vs.

\$ State of A.P. represented by its Public Prosecutor and another,

.... Respondents

! Counsel for the Petitioner: SRI M R K CHAKRAVARTHY

Counsel for the Respondents: 1. ABDUL SALEEM
2. PUBLIC PROSECUTOR

AND

CRIMINAL PETITIONER NO.2147 of 2025

U.JEEVAN REDDY S/O VENKATA REDDY

... Petitioner

Vs.

\$ State of A.P. represented by its Public Prosecutor,

.... Respondent

! Counsel for the Petitioner: SRI M R K CHAKRAVARTHY

Counsel for the Respondent : ADDITONAL PUBLIC PROSECUTOR

AND

CRIMINAL PETITION NO.2274 of 2025

VOLUPALLI MOHAN RANGA RAO S/O V.TATA RAO

... Petitioner

Vs.

\$ State of A.P. represented by its Public Prosecutor,

.... Respondent

! Counsel for the Petitioner : SRI KIRAN TIRUMALASETTI

Counsel for the Respondent : PUBLIC PROSECUTOR

AND

CRIMINAL PETITION NO.2697 of 2025

KARUBOLU ANIL KUMAR S/O K.THAMMI NAIDU

... Petitioner

Vs.

\$ State of A.P. represented by its Public Prosecutor,

.... Respondent

! Counsel for the Petitioner : SRI RAVURI LEELE SAI SAMPATH

Counsel for the Respondent : PUBLIC PROSECUTOR

AND**CRIMINAL PETITION NO.3344 of 2025**

KAKANI GOVARDHAN REDDY S/O RAMANA REDDY

... Petitioner

Vs.

\$ State of A.P. represented by its Public Prosecutor,

.... Respondent

! Counsel for the Petitioner : SRI O M R LAW FIRM

Counsel for the Respondent : PUBLIC PROSECUTOR

AND**CRIMINAL PETITION NO.3454 of 2025**

GUNTHANALA NAGAMANI W/O BURGULA SAI PRASAD

... Petitioner

Vs.

\$ State of A.P. represented by its Public Prosecutor and another,
.... Respondent

! Counsel for the Petitioner : SRI GEDDADA SRINIVAS

Counsel for the Respondent : PUBLIC PROSECUTOR

<Gist :

>Head Note:

? Cases referred:

1. 2025 SCC OnLine AP 22
2. 2025 SCC OnLine AP 31
3. 2024 SCC OnLine AP 5790
4. 2024 SCC OnLine AP 5322
5. (2020)4 Supreme Court Cases 727
6. 2024 SCC OnLine SC 2249
7. (2003) 4 Supreme Court Cases 325
8. (2000) 5 Supreme Court Cases 488
9. (2025) 3 Supreme Court Cases 440
10. 2012(8) SCC 795
11. 2025 INSC 1067

HON'BLE SRI JUSTICE K.SURESH REDDY
&
HON'BLE SMT JUSTICE V.SUJATHA

CRIMINAL PETITIONS NOS.1461 of 2025, 7844 of 2024, 2147, 2274, 2697,
3344 and 3454 of 2025

Date of Reference Order Pronounced: 19.09.2025

Submitted for Approval:

SRI JUSTICE K.SURESH REDDY

AND

SMT JUSTICE V.SUJATHA

- | | |
|--|----------|
| 1. Whether Reporters of Local newspapers may be allowed to see the judgments ? | Yes/No ✓ |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No ✓ |
| 3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment ? | Yes/No ✓ |

APHC010068382025



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

[3528]

FRIDAY, THE 19th DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY
THE HONOURABLE SMT JUSTICE V.SUJATHA

CRIMINAL PETITION NO: 1461/2025

Between:

- 1.SMT VIDADALA RAJANI, W/O KUMARA SWAMY VIDADALA AGED ABOUT 34 YEARS, FORMER MINISTER, R/O 36-137, MAIN ROAD, PURUSHOTHAMA PATNAM, CHILAKALURIPET.
- 2.NAGISETTY JAYA PHANINDRA,, S/O SRINIVASA RAO AGED ABOUT 35 YEARS, R/O 7-130, GANDHIPET, CHILAKALURIPET.
- 3.RAMA KRISHNA, S/O ANJIAH, AGED ABOUT 40 YEARS, R/O 2-71 VEMAVARAM, PRAKASHAM.

...PETITIONER/ACCUSED(S)

AND

- 1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT AT AMARAVATHI, THROUGH S.H.O., CHILAKALURIPETA TOWN P.S., GUNTUR DISTRICT.
- 2.PILLI KOTESWAR RAO, S/O PILLI SUBBA RAO, AGED ABOUT 38 YEARS, R/O D.NO 11-428 EAST MALLAPALI VILLAGE, CHILAKALURIPETA.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused(S):

1.S DUSHYANTH REDDY

Counsel for the Respondent/complainant(S):

- 1.V V LAKSHMI NARAYANA
- 2.PUBLIC PROSECUTOR

AND

CRIMINAL PETITION NO: 7844/2024

Between:

- 1.K C KRISHNA REDDY, S/O LATE K.C.RAMI REDDY, AGED ABOUT 64 YEARS, R/O. D. NO. 26/4/1628/A1, JAYAN TEJ NILAYAM, SBI COLONY, MELAPURAM, HINDUPURTOWN AND MANDAL, SRI SATHYA SAI DISTRICT ANDHRA PRADESH

...PETITIONER/ACCUSED

AND

- 1.THE STATE OF ANDHRA PRADESH, (DHARMAVARAM I TOWN POLICE STATION, SRI SATYA SAI DISTRICT), REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH, AT AMARAVATI. (EXTRA COPY SERVED TO THE PUBLIC PROSECUTOR FOR THE PURPOSE OF NOTICE TO THE VICTIM (SECOND RESPONDENT) UNDER SECTION 15A OF THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989)
- 2.BIRRU RAJASEKHAR, S/O.B.RAJANNA, AGED ABOUT 54 YEARS, OCC AGRICULTURE, R/O. D.NO.1-11-175, ABAADPET, HINDUPUR, SRI SATYA DISTRICT-515671.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused:

- 1.M R K CHAKRAVARTHY

Counsel for the Respondent/complainant(S):

- 1.ABDUS SALEEM
- 2.PUBLIC PROSECUTOR

AND

CRIMINAL PETITION NO: 2147/2025

Between:

1.U JEEVAN REDDY, S/O VENKATA REDDY, AGED ABOUT 36 YEARS,R/O MANESAMUDRAM VILLAGE, HINDUPUR TOWN AND MANDAL, SRI SATYA SAI DISTRICT.

...PETITIONER/ACCUSED

AND

1.THE STATE OF ANDHRA PRADESH, Rep. through Public Prosecutor, High Court of Andhra Pradesh, Amarvathi, Guntur District.

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1.M R K CHAKRAVARTHY

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

AND

CRIMINAL PETITION NO: 2274/2025

Between:

1.VOLUPALLI MOHAN RANGA RAO, S/O.V.TATA RAO, AGED 48 YEARS OCC.BUSINESS, R/O.D.NO.11-73-4 GANNAVARAM, NTR DISTRICT

...PETITIONER/ACCUSED

AND

1.THE STATE OF ANDHRA PRADESH, Station House Officer Patamata Police Station Vijayawada City, NTR District Rep.by public prosecutor High Court, Amaravathi

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1.KIRAN TIRUMALASETTI

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

AND

CRIMINAL PETITION NO: 2697/2025

Between:

1.KARUBOLU ANIL KUMAR, S/O K. THAMMI NAIDU, AGED 27 YRS ,
D.NO. 17-41, KRANTHI NAGAR, HANUMANTH WAKA , NEAR LV
PRASAD EYE HOSPITAL, GOVT DAIRY FARM VISAKHAPATNAM.

...PETITIONER/ACCUSED

AND

1.THE STATE OF ANDHRA PRADESH, Through the S.H.O., of
Muwalavanipalem P.S., Rep., by its Public Prosecutor High Court at
Amaravathi.

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1.RAVURI LEELA SAI SAMPATH

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

AND

CRIMINAL PETITION NO: 3344/2025

Between:

1.KAKANI GOVARDHAN REDDY, S/O. RAMANA REDDY, AGED ABOUT
60 YEARS, R/O. PODALAKUR ROAD, NELLORE, SPSR NELLORE
DISTRIC

...PETITIONER/ACCUSED

AND

1.THE STATE OF AP, Rep. by Public Prosecutor, High Court of Andhra
Pradesh At Amaravathi

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1.O M R LAW FIRM

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

AND

CRIMINAL PETITION NO: 3454/2025

Between:

1.GUNTHANALA NAGAMANI, W/O.BURGULA SAI PRASAD, AGED ABOUT 37 YEARS, OCC JOURNALIST H.NO.28-799-LB, N.G.O.S COLONY, NANDYALA NANDYALA MANDAL AND DISTRICT, ANDHRA PRADESH-518 501.

...PETITIONER/ACCUSED

AND

1.THE STATE OF ANDHRA PRADESH, THROUGH REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH.
2.MOLLANGI ELIJEBETH RANI, W/O. M. ABRAHAM, AGED ABOUT 40 YEARS, OCC REPOTER, R/O.28/759-4-4, N.G.O'S COLONY, NANDYALA TOWN, NANDYALA MANDAL AND DISTRICT, ANDHRA PRADESH.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused:

1.GEDDADA SRINIVAS

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

The Court made the following:

REFERENCE ORDER: *(Per K. Suresh Reddy, J)*

These matters came up before us on a reference made by the learned Single Judge of this Court, who, while considering the pre-arrest bail/anticipatory bail applications, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, by different petitioners in different crime numbers, vide CrI.P.Nos.2147, 2697, 2274, 3329, 3344 and 3454 of 2025, framed the following questions of law deemed to be of significance and directed that the same be placed before the Hon'ble Chief Justice for assignment to an appropriate Division Bench. Pursuant thereto, the Hon'ble the Chief Justice has been pleased to constitute this Bench to consider and adjudicate upon the questions so referred viz:-

“Whether, in cases where the alleged offence does not attract the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short ‘the Act’) :

1. An application for anticipatory bail is maintainable exclusively before the Special Court or the Exclusive Special Court, and the High Court is confined to exercising appellate jurisdiction only under Section 14A(2) of the Act;

or

2. Does the High Court retain its concurrent original jurisdiction under Section 438 of the Criminal Procedure Code to entertain such applications?

FACTUAL BACKGROUND :

When all these Criminal Petitions were listed before the learned Single Judge, the prosecution raised a preliminary objection regarding maintainability of said Criminal Petitions contending *inter alia* that under Section 438 of the Code of Criminal Procedure, 1973 and under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the application for pre-arrest bail/anticipatory bail is not maintainable before the High Court, in view of the legislative embargo/bar imposed under Section 14A(2) of the Act, 1989.

2. In support of its contention, the prosecution relied on the following Judgments of this Court:

1. **Chalivendra Ramakrishna Vs. State of Andhra Pradesh¹**
2. **Bandi Raghava Reddy Vs. State of Andhra Pradesh²**
3. **Deepak Kumar Tala Vs. State of Andhra Pradesh, rep. by its**

¹ 2025 SCC OnLine AP 22

² 2025 SCC OnLine AP 31

Public Prosecutor and others³

4. Nakka Nagireddy Vs. State of Andhra Pradesh⁴

3. Wherein in the afore-cited Judgments of this Court, it was held that the High Court refrained from exercising its original jurisdiction to entertain such applications under the provisions of the said Act. During the course of hearing, learned Single Judge while expressing his respectful view contrary to the view taken in the above judgments on the issue of maintainability, relied on the following judgments of the Hon'ble Supreme Court of India :-

1. Prathvi Raj Chauhan Vs. Union of India and others⁵

2. ShajanSkaria Vs. State of Kerala and another⁶

4. In the light of the divergent opinions of the co-ordinate Single Benches of this Court, the matter was placed before the Hon'ble the Chief Justice with a request to refer the matter to the Division Bench to resolve the above issues. Consequently, the Hon'ble the Chief Justice constituted this Bench to decide the above issues.

5. Sri O.Manohar Reddy, learned Senior Counsel, leading the batch would strenuously contend that the judgment of the learned Single Judge of

³ 2024 SCC OnLine AP 5790

⁴ 2024 SCC OnLine AP 5322

⁵ (2020)4 Supreme Court Cases 727

⁶ 2024 SCC OnLine SC 2249

this Court referred to *supra* is contrary to the judgments of Hon'ble Supreme Court vide **Prathvi Raj Chauhan's case** and **Shajan Skaria's case** (Supra 5 and 6). Learned Senior Counsel would further contend that the Hon'ble Supreme Court in the Judgment referred in **Prathvi Raj Chauhan's case** (supra 5) held as follows :-

"11. Concerning the applicability of provisions of Section 438 Cr.P.C., it shall not apply to the cases under the 1989 Act. However, if the complaint does not make out a prima facie case for applicability of the provisions of the 1989 Act, the bar created by Sections 18 and 18-A(i) shall not apply. We have clarified this aspect while deciding the review petitions.

12. The Court can, in exceptional cases, exercise power under Section 482 Cr.P.C. for quashing the cases to prevent misuse of provisions on settled parameters, as already observed while deciding the review petitions. The legal position is clear, and no argument to the contrary has been raised."

6. In the above Judgment, the Hon'ble Supreme Court referred to its earlier judgment reported in **Vilas Pandurang Pawar v. State of Maharashtra** [2012 (8) SCC 795]. In the said Judgment also, the Hon'ble Supreme Court held as follows :-

"10. The scope of Section 18 of the SC/ST Act read with Section 438 of the Code is such that it creates a specific bar in the grant of

anticipatory bail. When an offence is registered against a person under the provisions of the SC/ST Act, no court shall entertain an application for anticipatory bail, unless it prima facie finds that such an offence is not made out. Moreover, while considering the application for bail, scope for appreciation of evidence and other material on record is limited. The court is not expected to indulge in critical analysis of the evidence on record. When a provision has been enacted in the Special Act to protect the persons who belong to the Scheduled Castes and the Scheduled Tribes and a bar has been imposed in granting bail under Section 438 of the Code, the provision in the Special Act cannot be easily brushed aside by elaborate discussion on the evidence."

7. In paragraph 33 of the judgment in **Prathvi Raj Chauhan's case** (supra 5) also it was held as under:-

"33.I would only add a caveat with the observation and emphasis that while considering any application seeking pre-arrest bail, the High Court has to balance the two interests : i.e. that the power is not so used as to convert the jurisdiction into that under Section 438 of the Criminal Procedure Code, but that it is used sparingly and such orders made in very exceptional cases where no prima facie offence is made out as shown in the FIR, and further also that if such orders are not made in those classes of cases, the result would inevitably be a miscarriage of justice or abuse of process of law. I consider such stringent terms, otherwise contrary to the philosophy of bail, absolutely essential, because a liberal use of the power to grant pre-arrest bail would

defeat the intention of Parliament."

8. Further, the learned Senior Counsel brought to the notice of this Court about the observation of the Hon'ble Supreme Court in the judgment reported in **Shajan Skaria's case** (Supra 6), wherein it was held as follows:-

"45. In Arnesh Kumar v. State of Bihar and Another reported in (2014) 8 SCC 273, this Court laid emphasis on the phrases "credible information" and "reasonable suspicion" as they appear in Section 41 of CrPC and held as follows:

"5. Arrest brings humiliation, curtails freedom and casts scars forever. Lawmakers know it so also the police. There is a battle between the lawmakers and the police and it seems that the police has not learnt its lesson: the lesson implicit and embodied in CrPC. It has not come out of its colonial image despite six decades of Independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasised time and again by the courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive.

6. Law Commissions, Police Commissions and this Court in a large number of judgments emphasised the need to maintain a

balance between individual liberty and societal order while exercising the power of arrest. Police officers make arrest as they believe that they possess the power to do so. As the arrest curtails freedom, brings humiliation and casts scars forever, we feel differently. We believe that no arrest should be made only because the offence is non-bailable and cognizable and therefore, lawful for the police officers to do so. The existence of the power to arrest is one thing, the justification for the exercise of 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 in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent and wise for a police officer that no arrest is made without a reasonable satisfaction reached after some investigation as to the genuineness of the allegation. Despite this legal position, the legislature did not find any improvement. Numbers of arrest have not decreased. Ultimately, Parliament had to intervene and on the recommendation of the 177th Report of the Law Commission submitted in the year 2001, Section 41 of the Code of Criminal Procedure (for short "CrPC"), in the present form came to be enacted. It is interesting to note that such a recommendation was made by the Law Commission in its 152nd and 154th Report submitted as back in the year 1994. The value of the proportionality permeates the amendment relating to arrest.

xxx xxxxxx

7.3. In pith and core, the police officer before arrest must put a question to himself, why arrest? Is it really required? What purpose it

will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officers should have reason to believe on the basis of information and material that the accused has committed the offence. Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses (a) to (e) of clause (1) of Section 41 CrPC.

XXXXXXXXXX

10. We are of the opinion that if the provisions of Section 41 CrPC which authorises the police officer to arrest an accused without an order from a Magistrate and without a warrant are scrupulously enforced, the wrong committed by the police officers intentionally or unwittingly would be reversed and the number of cases which come to the Court for grant of anticipatory bail will substantially reduce. We would like to emphasise that the practice of mechanically reproducing in the case diary all or most of the reasons contained in Section 41 CrPC for effecting arrest be discouraged and discontinued.”

(Emphasis supplied)

46. The aforesaid discussion indicates that the term ‘arrest’ appearing in the text of Section 18 of the Act, 1989 should be construed and understood in the larger context of the powers of police to effect an arrest and the restrictions imposed by the statute

and the courts on the exercise of such power. Seen thus, it can be said that the bar under Section 18 of the Act, 1989 would apply only to those cases where *prima facie* materials exist pointing towards the commission of an offence under the Act, 1989. We say so because it is only when a *prima facie* case is made out that the pre-arrest requirements as stipulated under Section 41 of CrPC could be said to be satisfied.

iii. When can it be said that a *prima facie* case is made out in a given FIR/complaint?

47. *Prima facie* is a Latin term that translates to "at first sight" or "based on first impression". The expression "where no *prima facie* materials exist warranting arrest in a complaint or FIR" should be understood as "when based on first impression, no offence is made out as shown in the FIR or the complaint". This means that when the necessary ingredients to constitute the offence under the Act, 1989 are not made out upon the reading of the complaint, no case can be said to exist *prima facie*.

48. As a *sequitur*, if the necessary ingredients to constitute the offence under the Act, 1989 are not disclosed on the *prima facie* reading of the allegations levelled in the complaint or FIR, then in such circumstances, as per the consistent exposition by various decisions of this Court, the bar of Section 18 would not apply and the courts would not be absolutely precluded from granting pre-arrest bail to the accused persons.

49. In our opinion, the aforesaid is the only test that the court should

apply, when an accused prays for anticipatory bail in connection with any offence alleged to have been committed under the provisions of the Act, 1989. In a given case, an accused may argue that although the allegations leveled in the FIR or the complaint do disclose the commission of an offence under the Act, 1989, yet the FIR or the complaint being palpably false on account of political or private vendetta, the court should consider the plea for grant of anticipatory bail despite the specific bar of Section 18 of the Act, 1989. However, if the accused puts forward the case of malicious prosecution on account of political or private vendetta then the same can be considered only by the High Court in exercise of its inherent powers under Section 482 of the Code or in exercise of its extraordinary jurisdiction under Article 226 of the Constitution. However, powers under Section 438 of the CrPC cannot be exercised once the contents of the complaint/FIR disclose a *prima facie* case. In other words, if all the ingredients necessary for constituting the offence are borne out from the complaint, then the remedy of anticipatory bail becomes unavailable to the accused.

50. The duty to determine *prima facie* existence of the case is cast upon the courts with a view to ensure that no unnecessary humiliation is caused to the accused. The courts should not shy away from conducting a preliminary inquiry to determine if the narration of facts in the complaint/FIR in fact discloses the essential ingredients required to constitute an offence under the Act, 1989. It is expected of the courts to apply their judicial mind to determine whether the allegations leveled in the complaint, on a plain reading,

satisfy the ingredients constituting the alleged offence. Such application of judicial mind should be independent and without being influenced by the provisions figuring in the complaint/FIR. The aforesaid role of the courts assumes even more importance when a *prima facie* finding on the case has the effect of precluding the accused person from seeking anticipatory bail, which is an important concomitant of personal liberty of the individual.

51. The aforesaid position is also apparent from a plain construction of the text of Section 18 of the Act, 1989. The words "having committed an offence under this Act" denote that it is only when the accusation in the complaint clearly points towards the commission of an offence under the Act, 1989 that the bar of Section 18 would apply. The minimum threshold for determining whether an offence under the Act has been committed or not is to ascertain whether all the ingredients which are necessary to constitute the offence are *prima facie* disclosed in the complaint or not. An accusation which does not disclose the necessary ingredients of the offence on a *prima facie* reading cannot be said to be sufficient to bring into operation the bar envisaged by Section 18 of the Act, 1989. Holding otherwise would mean that even a plain accusation, devoid of the essential ingredients required for constituting the offence, would be enough for invoking the bar under Section 18. In our considered view, such an approach would not be in line with the dictum as laid by this Court while upholding the Constitutionality of Sections 18 and 18-A respectively of the Act, 1989."

9. Learned Senior Counsel further would contend that the Hon'ble Supreme Court in the above judgments has categorically held that where there is no *prima facie* material exists, warranting arrest of a person in a complaint or FIR, the application under Section 438 Cr.P.C. [present Section 482 of B.N.S.S, 2023] is certainly maintainable, despite the bar enunciated under Section 18A of the Act and as upheld by the Hon'ble Supreme Court in the judgment referred in **Prathvi Raj Chauhan's case** (Supra 5). *Ergo*, if no *prima facie* spells out, then there exists no bar for entertaining an application under Section 438 of Code [present Section 482 of B.N.S.S, 2023]. It is only when the *prima facie* case is made out, the bar created under Section 18 and 18(A) of the Act would come into force. The Hon'ble Supreme Court has also held that if the accused puts forward the case of malicious prosecution on account of the political or other vendetta, then the same can be considered only by the High Court in exercising inherent powers under Section 482 of the Code or in exercise of its extra-ordinary jurisdiction under Article 227 of Constitution of India. However, powers under Section 438 of the Code cannot be exercised once the contents of the complaint/FIR disclose *prima facie* case. As such, the bar created under Section 18 and 18A of the Act is not applicable where there is no *prima facie* case.

10. In both judgments of the Hon'ble Supreme Court, forum for filing an application under Section 438 of the Code [present Section 482 of B.N.S.S, 2023] was not discussed as the same could not arise in both those judgments. The learned Senior Counsel contends that when there is no *prima facie* case made out against the accused, the accused can invoke Section 438 of the Code [present Section 482 of B.N.S.S, 2023] only before the High Court and not before the Special Court or Exclusive Special Court.

11. It was further contended that since those courts were created under the provisions of the special enactment i.e., the Act and since the FIR will be lodged under the provisions of said special enactment i.e., the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the said Special Court will not entertain an application under Section 438 Cr.P.C. in view of the bar envisaged under Section 18 and 18A of the Act. As such, the accused has to inevitably approach the High Court seeking pre-arrest bail under Section 438 of the Code [present Section 482 of B.N.S.S, 2023].

12. On the other hand, Sri Marri Venkata Ramana, learned Additional Public Prosecutor assisted by Sri A.Sai Rohit, learned Assistant Public Proscutor contends that the accused has to file an application under Section

438 of the Code only before the Special Court or before the Exclusive Special Court. He would further contend that the High Court is only having an appellate jurisdiction as per Section 14A of the Act and the High Court does not entail its original jurisdiction under Section 14-A of the Act.

13. He further contends that the High Court will not have original jurisdiction as well as the appellate jurisdiction with regard to the same issue. In support of his contention, he relied on the Order, dated 31.01.2025, of the Hon'ble Supreme Court wherein the Apex court while dismissing SLP Nos.1497 to 1511 of 2025 held as follows:-

"We are not inclined to entertain these petitions. Accordingly, the Special Leave Petitions are dismissed.

However, we leave it open for the petitioners to approach the Trial Court/Special Court under Section 438 Cr.P.C. forthwith and for a period of two weeks, no coercive measures be taken against the petitioners.

It is made clear that this interim order is being passed without looking into the merits of the matters. The trial Court/Special Court would be at liberty to pass an independent order on the applications so filed."

14. Learned Additional Public Prosecutor submits that the above appeals arose out of concurrent judgment of this Court, referred 1 to 4 supra, as such, he contends that an application under Section 438 Cr.P.C. is

maintainable only before the learned Special Court or Exclusive Special Court.

15. On the other hand, Sri O.Manohar Reddy, learned Senior Counsel contends that the orders in the above referred judgments of the Hon'ble Supreme Court are not binding as no ratio was laid down by the Hon'ble Supreme Court in the above order. In support of his contention, he relied on the judgments of the Hon'ble Supreme Court reported in **COLLECTOR OF CUSTOMS, BOMBAY v. ELEPHANTA OIL & INDUSTRIES LTD., BOMBAY**⁷ wherein it is held as follows:-

"15. It is to be stated that the Tribunal relied upon its earlier decision by observing that the SLP against the said decision was dismissed by this Court summarily. But, it is well-settled law that in case where SLP is dismissed without assigning any reason, that order would not constitute a binding precedent. (Re: Ajit Kumar Rath v. State of Orissa (1999) 9 SCC 596 : 2000 SCC (L &S) 192 : 1999 Supp (4) SCR 302."

16. He also relied on another judgment of the Hon'ble Supreme Court reported in **ARNIT DAS v. STATE OF BIHAR**⁸ wherein it is held as follows:

"20. A decision not expressed, not accompanied by reasons and not proceeding on a conscious consideration of an issue

⁷ (2003) 4 Supreme Court Cases 325

⁸ (2000) 5 Supreme Court Cases 488

cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. That which has escaped in the judgment is not the ratio decidendi. This is the rule of sub silentio, in the technical sense when a particular point of law was not consciously determined."

17. In another Judgment reported in **NBCC (INDIA) LIMITED v. STATE OF WEST BENGAL AND OTHERS**⁹ wherein it is held as follows:-

"53. A decision where the issue was neither raised nor preceded by any consideration, in State of U.P. v. Synthetics and Chemicals Ltd. this Court held : (SCC p. 163, para 41)

"41. ... the Court did not feel bound by earlier decision as it was rendered without any argument, without reference to the crucial words of the rule and without any citation of the authority".

Further, approving the decision of this Court in Municipal Corporation of Delhi v. Gurnam Kaur, which held that "precedents sub-silentio and without argument are of no moment" this Court held that : (Synthetics & Chemicals case, SCC p. 163, para 41)

"41. ... A decision which is not express and is not founded on reasons nor it proceeds on consideration of issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141".

54. The same approach was adopted in *Arnit Das (1) v. State of Bihar* where it was held that : (SCC p. 498, para 20)

⁹ (2025) 3 Supreme Court Cases 440

"20. A decision not expressed, not accompanied by reasons and not proceeding on a conscious consideration of an issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. That which has escaped in the judgment is not the ratio decidendi. This is the rule of sub-silentio, in the technical sense when a particular point of law was not consciously determined".

55. In this context, it is also important to note that, as an institution, our Supreme Court performs the twin functions of decision-making and precedent-making. A substantial portion of our jurisdiction under Article 136 is reflective of regular appellate disposition of decision making. Every judgment or order made by this Court in disposing of these appeals is not intended to be a binding precedent under Article 141. Though the arrival of a dispute for this Court's consideration, either for decision-making or precedent-making is at the same tarmac, every judgment or order which departs from this Court lands at the doorstep of the High Courts and the subordinate courts as a binding precedent. We are aware of the difficulties that High Courts and the subordinate courts face in determining whether the judgment is in the process of decision-making or precedent-making, particularly when we have also declared that even an obiter of this Court must be treated as a binding precedent for the High Courts and the courts below. In the process of decision making, this Court takes care to indicate the instances where the decision of the Supreme Court is not to be treated as precedent. It is therefore necessary to be cautious in our dispensation and state whether a particular decision is to resolve the dispute between the parties and

provide finality or whether the judgment is intended to and in fact declares the law under Article 141."

18. As such, he contends that the Hon'ble Supreme Court has not relied on any ratio and as such, the observation made in the SLP No.1497 to 1511 of 2025 is not applicable. He further contends that when the alleged offence does not attract the provisions of the Act, then an application for anticipatory bail is maintainable before the High Court only in terms of the Judgment of the Hon'ble Supreme Court in **Prathvi Raj Chauhan's case** and **Shajan Skaria's case** (Supra 5 and 6).

19. He further contends that the High Court will retain its original jurisdiction under Section 438 Cr.P.C. and it also retains the appellate jurisdiction under Section 14A(2) of the Act.

20. We have carefully gone through and meticulously perused the entire material on record and we have also carefully perused the Judgments cited by both counsel for the parties to the *lis* including the Judgments of the Hon'ble Supreme Court in **Prathvi Raj Chauhan's case** and **Shajan Skaria's case** (Supra 5 and 6).

21. At the threshold and before proceeding further, the relevant provisions of the said Act, 1989 have been extracted hereunder for better appreciation of the *lis*:

Section 2(bd) "Exclusive Special Court" means the Exclusive Special Court established under sub-section (1) of section 14 exclusively to try the offences under this Act;

Section 2(d) "Special Court" means a Court of Session specified as a Special Court in section 14;

14A. Appeals.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

(2) Notwithstanding anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.

(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of judgment, sentence or order appealed from :

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days :

Provided further that no appeal shall be entertained

after the expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section(1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

18. Section 438 of the Code not to apply to persons committing an offence under the Act.—Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

18A. No enquiry or approval required. – (1) For the purposes of this Act,--

- a) Preliminary enquiry shall not be required for registration of a First Information Report against any person; or
- b) The investigating officer shall not require approval for the arrest, if necessary, of any person,
- c) Against whom an accusation of having committed an offence under this Act has been made and no procedure other than that provided under this Act or the Code shall apply.

(2) The provisions of Section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court.

22. As already pointed *supra*, the Hon'ble Supreme Court in the judgment of **Prathvi Raj Chauhan's case** and **Shajan Skaria's case** (Supra 5 and 6) has clearly stated that when the *prima facie* case is not made out,

the accused can certainly approach the Court under Section 438 Cr.P.C. seeking pre-arrest bail. The same view was taken by the Hon'ble Supreme Court referred in **Shajan Skaria's case** (supra 6). Earlier also, the Hon'ble Supreme Court has taken a similar view in the judgment reported in **Vilas Pandurang Pawar & Anr vs State Of Maharashtra & Ors**¹⁰. It is trite to mention here that, in all these three judgments of Hon'ble Supreme Court of India, there was no specific issue with regard to the forum for filing pre-arrest bail application/anticipatory bail application. The said issue never fell for consideration before the Hon'ble Supreme Court. The only issue in the above judgments before the Hon'ble Supreme Court was whether an application under Section 438 Cr.P.C. is maintainable or not in view of the bar prescribed under Section 18 and 18A of the Act and the Hon'ble Supreme Court of India categorically concluded that, an application under Section 438 Cr.P.C. is maintainable in the event no *prima facie* case/material is made out.

23. We have carefully examined the relevant portions of the Act as well as the Code. As seen from the above judgments, it is clear that once the *prima facie* case is made out, the bar created under Section 18 and 18A of the Act would attract. However, when no *prima facie* material exists, the bar

¹⁰ 2012(8) SCC 795

envisaged under Section 18 and 18A of the Act would not apply.

24. So far as the forum is concerned, the Special Court and Exclusive Special Court are created and established under Section 2(bd) and Section 2(d) of the Act. Section 2(bd) of the Act, 1989 amply defines "Exclusive Special Court" as the Exclusive Special Court established under Sub-section (1) of Section 14 exclusively to try the offences under said Act & Section 2(d) of the Act, defines "Special Court" as a Court of Session specified as a Special Court in Section 14 of said Act. *Ergo*, a combined reading of Section 2(bd), 2(d), 14, 18 and 18A of said Act, entrenches the view that the Special Court or Exclusive Special Court, constituted under said Act, will acquire jurisdiction only when the *prima facie* case is made out against the accused. Once, *prima facie* case is not made out, the jurisdiction of the Special Court or Exclusive Special Court pertaining to applications filed for pre-arrest bail/anticipatory Bail will be ousted. Moreover, in such event, there is every possibility of the Special Court or exclusive Special Court sending the cases to the regular Court of Sessions. In this connection, it is relevant to extract the provisions of Section 438(1) Cr.P.C, which reads as under:-

"438. Direction for grant of bail to person apprehending arrest:--

(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this

section;.....”

As such, the filing of an application under Section 438 Cr.P.C. before the Special Court or Exclusive Special Court would be a futile exercise in the considered opinion of this Court. In such circumstances, when there is no *prima facie* case made out against the accused, the petitioner can approach the High Court seeking pre-arrest bail/anticipatory bail by exercising the power conferred upon the Hon'ble High Court under Section 438 [present Section 482 of B.N.S.S, 2023]. As such, the High Court will retain both jurisdictions viz; (i) its original jurisdiction under Section 438 of the Code [present Section 482 of B.N.S.S, 2023] and (ii) appellate jurisdiction under Section 14A of the Act. So far as the Special Court or Exclusive Special Courts are concerned, they will not have powers under Section 438 Cr.P.C. in view of the bar created under Section 18 and 18A of the Act, which was uphold by the Hon'ble Supreme Court in **Prathvi Raj Chauhan's case** (Supra 5).

25. It is worthwhile to mention hereunder the contention of the learned Additional Public Prosecutor that the High Court will not have original jurisdiction as well as the appellate jurisdiction with regard to the same issue. In support of his contention, he relied upon the Order of Hon'ble Supreme Court in the Order, dated 31.01.2025, passed in SLP Nos.1497 to 1511 of

2025, wherein the Hon'ble Supreme Court of India had dismissed the SLP at the stage of admission. That, as rightly contended by the learned Senior Counsel leading the Batch, the said Order, dated 31.01.2025 in SLP Nos.1497 to 1511 of 2025 passed by the Hon'ble Supreme Court of India, amply discloses that the SLP was dismissed by Hon'ble Supreme Court of India summarily. That, it is well-settled law, as enunciated in a catena of Judgments of Hon'ble Supreme Court of India, that in case where SLP is dismissed by the Hon'ble Supreme Court of India without assigning any reason, that order would not constitute a binding precedent. *Therefore*, the same is of no assistance to the learned Additional Public Prosecutor, is of the considered opinion of this Court.

26. More over, in the recent Full Court Judgment of the Hon'ble Apex Court in ***Kiran Vs, Rajkumar Jivraj Jain & Anr***¹¹ [delivered on 01.09.2025], the Hon'ble Supreme Court, while setting aside the pre-arrest bail granted by the High Court of Judicature at Bombay, Bench at Aurangabad, has concurred with the view expressed in **Prathvi Raj Chauhan's case** and **Shajan Skaria's case** (Supra 5 and 6).

¹¹ 2025 INSC 1067

27. In view of the reasons assigned *supra*, we answer Points No.1 & 2 of the said Reference by holding that in the event *prima facie* case is not made out, the application for pre-arrest bail/anticipatory bail is maintainable under Section 438 Cr.P.C. before the High Court only and not before the Special Court or Exclusive Special Court constituted under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Further, the High Court retains its Concurrent as well as Original Jurisdiction under Section 438 of the Code of Criminal Procedure, 1973 [present Section 482 of B.N.S.S, 2023] and also under Section 14-A of the Act. Hence, the said Points No.1 & 2 of Reference are answered accordingly. Registry is directed to place this Reference Order along with Criminal Petitions before the Hon'ble the Chief Justice, so as to post the same before an appropriate Bench for adjudication in accordance with law.

Sd/- K SRINIVASA RAJU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER.

One fair copy to the Honourable SRI JUSTICE K.SURESH REDDY
(for His Lordship's kind perusal)

One fair copy to the Honourable SMT JUSTICE V.SUJATHA
(for Her Ladyship's kind perusal)

To,

1. The Registrar(Judicial), High Court of Andhra Pradesh at Amaravathi.
2. The Special Judge for Trial of Offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 –cum-VIII Additional District and Sessions Judge, Ananthapuramu, Ananthapuram District.

3. One CC to Sri. S Dushyanth Reddy, Advocate [OPUC]
4. One CC to Sri. V V Lakshmi Narayana, Advocate [OPUC]
5. One CC to Sri. M R K Chakravarthy, Advocate [OPUC]
6. One CC to Sri. Abdus Saleem, Advocate [OPUC]
7. One CC to Sri. Kiran Tirumalasetti, Advocate [OPUC]
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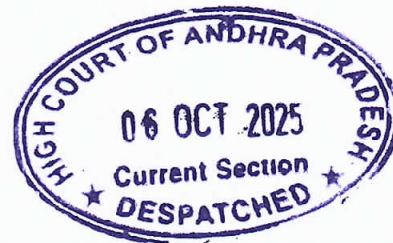
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HIGH COURT
DATED:19/09/2025

Note : Registry is directed to place this Reference Order along with the Criminal Petitions before the Hon'ble Chief Justice, so as to post the same before an appropriate Bench for adjudication in accordance with law

REFERENCE ORDER
CRLP Nos. 1461 of 2025, 7844 of 2024,
2147,2274,2697,3344 and 3454 of 2025



POST BEFORE APPROPRIATE BENCH