

APHC010152262025



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

[3369]

MONDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL PETITION NO: 3289/2025

Between:

Thrumella Venkata Naganjaneya Sharma

...PETITIONER/ACCUSED

AND

The State Of Ap

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1.D KISHORE KUMAR

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

The Court made the following ORDER:

1. The Criminal Petition filed, under Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') seeking regular bail, by petitioner/accused in Cr.No.127/2024 of Ipur Police Station, Palnadu District registered for the offence as girl missing.

2. The prosecution's case, in brief, is that, the defacto complainant lodged a report that on 21.11.2024 at 5:10 PM, his elder brother (petitioner/accused), a newspaper reporter for Ipuru Mandal and father of two daughters, attempted suicide due to severe debts stemming from his addiction to festivity. Accused took his daughters to the Muppalla Addanki branch NSP canal, where the girls were swept away due to water flowing in the canal, while he was rescued by

passersby. Upon receiving information from one Shaik Jaleel, the complainant and fellow villagers searched for the missing girls. Suspecting his brother's conduct, the defacto complainant filed a report with the police. Initially, a case of girl missing was registered on 21.11.2024. During investigation, the section of law was altered to Section 194 BNS on 22.11.2024 and further changed to Section 103(1) BNS on 23.11.2024.

3. Learned counsel for the petitioner contends that the petitioner's wife is suffering from a severe mental illness (psychopathic disorder) and is almost bedridden. The petitioner's mother, who is around 75 years old, is currently taking care of her. The petitioner was arrested on 28.11.2024 and has been in judicial custody at the Sub-jail, Vinukonda, since then. The investigation in this crime has been completed, and the charge sheet has already been filed before the Court concerned. Therefore, the release of the accused is unlikely to hamper the investigation. The learned counsel prays that bail be granted by allowing the criminal petition.

4. On the other hand, learned Assistant Public Prosecutor opposed the grant of bail to the petitioner on the ground that a very heinous offence has been attributed to him. However, he fairly submitted that the investigation has been completed and the police have filed the charge sheet before the Court concerned.

5. I have heard Sri D. Kishore Kumar, learned counsel for the petitioner and Sri G. Neelothpal, learned Assistant Public Prosecutor for the Respondent / State. Learned counsel on either side reiterated their submissions, which are on par with the contentions presented in the petition and the report.

6. In ***Mahipal V. Rajesh***¹, the Hon'ble Apex Court held that it is necessary for the Court, while considering an application for bail, to assess whether, on the basis of the evidentiary record, there existed a *prima facie* or reasonable ground to believe that the accused has committed the crime.

¹ (2020) 2 SCC 118

7. In **P. Chidambaram V. CBI**², the Hon'ble Supreme Court observed that:

21. The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:

- (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;*
- (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;*
- (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;*
- (iv) character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;*
- (v) larger interest of the public or the State and similar other considerations.*

[Vide Prahlad Singh Bhati v. State (NCT of Delhi) [Prahlad Singh Bhati v. State (NCT of Delhi), (2001) 4 SCC 280 : 2001 SCC (Cri) 674] .]

8. In **Anil Kumar Yadav V. State (NCT of Delhi)**³, the Hon'ble Supreme Court has spelt out some of the significant considerations which must be placed in the balance in deciding whether to grant bail:

17. While granting bail, the relevant considerations are : (i) nature of seriousness of the offence; (ii) character of the evidence and circumstances which are peculiar to the accused; and (iii) likelihood of the accused fleeing from justice; (iv) the impact that his release may make on the prosecution witnesses, its impact on the society; and (v) likelihood of his tampering. No doubt, this list is not exhaustive. There are no hard-and-fast rules regarding grant or refusal of bail, each case has to be considered on its own merits. The matter always calls for judicious exercise of discretion by the Court.

9. In **Neeru Yadav V. State of U.P.**⁴, the Hon'ble Supreme Court observed as follows:

16. We are not oblivious of the fact that liberty is a priceless treasure for a human being. It is founded on the bedrock of the constitutional right and accentuated further on the human rights principle.

²(2020) 13 SCC 337

³(2018) 12 SCC 129

⁴(2014) 16 SCC 508

It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilised society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilised. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to the rule of law, anxiously guards liberty. But, a pregnant and significant one, the liberty of an individual is not absolute. Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from its members, and it desires that the citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow. At that stage, the court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or caprice. It has to be guided by the established parameters of law.

10. Though detailed examination of the evidence and elaborate documentation of the merits of the case is to be avoided by the Court while passing orders on bail applications, yet a Court dealing with the bail application should be satisfied as to whether there is a prima facie case, but exhaustive exploration of the merits of the case is not necessary.

11. Before advertng to the merits of the case, this Court would like to clarify that while the filing of a charge sheet is a significant factor in granting bail, it is not the sole criterion to be considered. This must be evaluated in conjunction with the facts and circumstances of the case at hand. In the present matter, although the charge sheet has been filed, the material on record specifically highlight the role played by the petitioner in the commission of the alleged offence.

12. Filing of the charge sheet establishes that after due investigation, the investigation agency, having found materials has placed the charge sheet for the trial of the accused persons. Thus, filing of the charge sheet does not in any manner lessen the allegations made by the prosecution.

13. After careful reading of the material, this Court finds that the prosecution has placed prima facie material in support of the charge. The grant of bail requires the consideration of various factors which ultimately depend upon the specific facts and circumstances of the case before the Court. There is no strait jacket formula which can be prescribed as to what the relevant factors would be.

14. According to the charge sheet, the accused deliberately killed his two daughters by jumping into a canal with them and his motorcycle. While drowning, one of the daughters reportedly cried for help, asking the petitioner to save her, but ultimately drowned. The petitioner swam to safety. When LW.4, P.Siva Krishna, questioned him about the incident, the accused claimed the motorcycle went out of control while he was using his phone. However, LW.4 stated the accused was not using his phone at the time.

15. The record indicates that the petitioner's wife suffers from a psychopathic disorder and is nearly bedridden, while his mother is about 75 years old. This Court finds merit in the public prosecutor's argument that their safety may be at risk if the petitioner is released on bail.

16. Apart from the gravity and magnitude of the instances involved in this case that inhibit the grant of bail to the petitioner, the possibility of the prosecution case getting affected once the petitioner is released on bail cannot be ruled out. I don't express anything further on merits and going into detail as any further observation on merits may affect the prosecution case as well as the defence case. Having considered the aforesaid facts of the present case in juxtaposition with the judgments referred to above, suffice it to say that the facts and circumstances of the case and looking at the nature of serious

allegations, I don't think that this is a fit case for grant of bail to the petitioner/accused.

17. Given the above facts and circumstances, this Court is not inclined to grant bail to the petitioner/accused. Accordingly, the Criminal Petition is ***dismissed***.

Miscellaneous applications, pending if any, shall stand dismissed.

JUSTICE T.MALLIKARJUNA RAO

Date: 05.05.2025

SAK

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL PETITION No. 3289 of 2025

DATE: 05.05.2025

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