

APHC010156282025



**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: 3305/2025

Between:

Shark Gali Saida @ Piddu,

...PETITIONER/A.1

AND

The State Of Andhra Pradesh

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1.VELADI SAI SRI HARSHA

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/A.1 in Cr.No.43/2025 of Kanchikacherla Police Station, NTR Commissionerate, registered for the offence under sections 318(2), 318(4), 64(1), 70(1), 127(2), 351(2), 87 r/w 3(5) of Bharatiya Nyaya Sanhita, 2023 (for short, 'BNS').

2. The prosecution's case involves A1, a resident of Paritala village, and the victim, a second-year B.Tech student from Tiruvuru, studying at Amrutha Sai Engineering College, near Paritala. A3, a classmate of the victim, is also implicated. A2, who met the victim during her commute to college and hostel,

developed a friendship with her, took her to various places, and photographed her. A2 allegedly introduced A1 to the victim. On 12.01.2025 at 11:00 am, A2 invited the victim to lunch, claiming there was a function at his house. Trusting him, the victim left the hostel with A2. Once at A2's house, A1 and A3 were present. A2 left the scene under the pretext of a task, and during his absence, A1 locked the room, threatened the victim, and claimed to possess compromising photos of her with A2. He threatened to morph and shares these images on social media. Afterward, A1 forcibly raped the victim against her will. As the victim screamed for help, A2 and A3 increased the TV volume to ensure that the neighbors couldn't hear her cries. The victim reportedly asked A1, A2, and A3 to delete the photos from their phones. However, they threatened her with dire consequences. Since then, A1 allegedly sent messages to the victim via WhatsApp, demanding she meet him, or he would post the naked photos on social media. Unable to endure the continuous threats and harassment, the victim, along with her parents, filed a report with the police against the accused. Thus, A1 to A3 conspired to deceitfully lure the victim to the A.2's house, where they assisted A1 in committing rape against her and afterward, they threatened the victim, warning that they would post her naked photos and a video of the incident on social media.

3. Learned counsel for the petitioner submits that the complaint was lodged with mala fide intention, solely to falsely implicate the petitioner, who was not present at the scene of the alleged incident. The petitioner has been in judicial custody since 10.02.2025. According to the complainant, the incident took place on 12.01.2025 at around 11:00 a.m.; however, the complaint was filed only on 09.02.2025, resulting in an unexplained delay of 28 days. A previous regular bail application (CrI.M.P.No.226/2025) was dismissed on 20.03.2025. The petitioner undertakes to cooperate with the investigating agency to facilitate the prompt completion of the investigation. The learned counsel, therefore, prays that bail be granted to the petitioner.

4. On the other hand, learned Assistant Public Prosecutor opposed the grant of bail to the petitioner, contending that the petitioner has been accused of a heinous offence. It is submitted that the victim has made grave allegations against the petitioner, specifically asserting that he was the main perpetrator which forcibly raped her. The delay in lodging the complaint, it is argued, was due to the victim being blackmailed by the accused, who threatened to publicly share her photos, thereby causing irreparable harm to her reputation. He further submits that the investigation is still ongoing with respect to the examination of some more witnesses and the collection of medical certificates for both the accused and the victim.

5. I have heard Sri Veladi Sai Sri Harsha, learned counsel for the petitioner/A.1 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 **Masroor V. State of U.P.**¹, a Division Bench of the Hon'ble Supreme Court observed as follows:

13. ... Though at the stage of granting bail, an elaborate examination of evidence and detailed reasons touching the merit of the case, which may prejudice the accused, should be avoided, but there is a need to indicate in such order reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence.

7. The petitioner contends that even as per prosecution, sexual intercourse with the victim was consensual and the victim was in a relationship with the petitioner for the past year. According to the prosecution, on 12.01.2025 at 11.00 AM, A.2, who was in a relationship with the victim, invited her to lunch under the pretext of attending a family function; trusting him, she left her hostel with A.2; upon reaching A.2's house, she found no one there except A.1 and A.3, who were already present; A.2 then left, citing some work,

¹ (2009) 14 SCC 286

and during his absence, A.1 locked the room, and threatened the victim, claiming to possess photos of her with A.2, and threatened to morph and share them on social media; under this threat, A.1 forcibly raped the victim against her will and as she screamed for help, A.2 and A.3 increased the TV volume to muffle her cries. The victim requested A.1, A.2, and A.3 to delete the photos, but they threatened her with dire consequences. Subsequently, A.1 allegedly sent messages to the victim through WhatsApp, demanding a meeting, or threatening to post her naked photos on social media.

8. As reflected in the record, the investigating officer seized the cell phones from the accused during the arrest, in the presence of mediators. Regarding the investigation, it is ongoing, as additional witnesses need to be examined and the medical certificates of both the accused and the victim are still awaited.

9. It is important to note that the defacto complainant / Victim and A.3 were second- year B.Tech students at Amrita Sai Engineering College, Paritala; A.2, a third-year undergraduate student of Deeksha Degree College, Kanchikacherla, became acquainted with the complainant/victim through Instagram, and they subsequently developed a relationship; the petitioner (A.1) is a friend of A.2, who is alleged to have assisted A.1 to forcibly raped the victim.

10. As already noted, the offences under sections 318(2), 318(4), 64(1), 70(1), 127(2), 351(2), 87 r/w 3(5) of BNS registered against the petitioner and others. The offence of rape is punishable by rigorous imprisonment for at least ten years, extendable to life imprisonment with a fine. Gang rape carries twenty years' rigorous imprisonment, extendable to life imprisonment with a fine. The offence alleged to have been committed by the petitioner is grave in nature. In fact, rape cannot be considered as a mere physical assault. In an occurrence of this type, the resistance from the victim cannot be expected, there is no allegation that the victim was inimical or was acting against the

instigation of somebody else. Therefore, the cases relating to granting of bail in offences of rape are required to be approached differently, as granting of bail in such cases by adopting a liberal approach would be against the interest of the society.

11. It is not necessary now to go into detail about the correctness or otherwise of the allegations made against the accused as this is a subject matter to be dealt with by the trial judge. The period of incarceration by itself would not entitle the petitioner/A.1 to be enlarged on bail.

12. In view of above, considering cumulative effect of entire facts and circumstances, without commenting upon the merits of the evidence and keeping in view the principles laid down by the Hon'ble Apex Court and other factors, like grievance of the offences including the severity of the punishment, manner in which it has been committed and its impact on the society, petitioner/A.1 is not entitled for bail, at this stage.

13. For all the foregoing reasons, I do not find any merit in the petition and the same is accordingly, ***dismissed***.

14. 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.

Miscellaneous applications pending, if any, shall stand closed.

JUSTICE T MALLIKARJUNA RAO

Date: 05.05.2025

SAK

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL PETITION NO: 3305/2025

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SAK