



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

[3560]

WEDNESDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL PETITION NO: 3480/2026

Between:

1. MOOLA CHANDRA KALA, W/O PARASURAM, AGED 50 YRS,
OCCISTAFFNURSE, K.G.HOSPITAL, VISAKHAPATNAM.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP., BY ITS PUBLIC
PROSECUTOR HIGH COURT AT AMARAVATHI.

2. CH V M PRASAD, S/O LATE KRISHNAMNAIDU, AGED 45
YRS. L.KOTA MANDAL VIZIANAGARAM DISTRICT.

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court pleased to declare the Impugned Docket Order dt. 16-01-2025 in C.C.No. 147/2016 on the file of Judicial First Class Magistrate at Kotthavalasa, Vizianagaram District by issuance of an N.B.W., as against the Petitioner/Accused it is bad in law Contrary to the Apex Court Rulings there by to Quash the docket order dated dt. 16-01-2025 in C.C.No. 147/2016 on the file of Judicial First Class Magistrate at Kotthavalasa, Vizianagaram District by Allowing the Criminal Petition and pass

IA NO: 1 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to dispense with filing of the original certified copy

of docket order in C.C.No.147/2016, dated 16-01-2025 on the file of Judicial First Class Magistrate at Kotthavalasa, before this Hon'ble Court and pass

IA NO: 2 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Stay of the Operation of the docket order dt.16-01-2025 in C.C.No.147/2016 on the file of Judicial First Class Magistrate at Kotthavalasa, Vizianagaram District pending disposal of the main Criminal Petition in the interest of the justice, and pas

Counsel for the Petitioner/accused:

1.RAVURI LEELA SAI SAMPATH

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

The Court made the following Order:

The instant criminal revision case is filed challenging impugned order dated 23.01.2025 passed by learned jurisdictional Magistrate concerned whereby and whereunder the learned Court below has issued Non-Bailable Warrant against the accused/petitioner in a case registered under Section 138 of NI Act.

2. Learned counsel for the petitioner submits that the trial Court without following the due process of law directly issued Non-Bailable Warrant. Learned Court below, in pursuance to the direction of the Hon'ble Supreme Court in ***Inder Mohan Goswami and another vs. State of Uttaranchal and others*** reported in ***AIR 2008 Supreme Court 251***, can only issue Non-Bailable Warrant in respect of heinous crimes, more so, after exhausting procedure of issuing summons, Bailable Warrant and thereafter Non-Bailable Warrant may be issued. He also submits that instant case was registered under Section 138 of NI Act, the present petitioner was arrayed as an accused in this case, hence, Non-Bailable Warrant issued against the present petitioner is required to be quashed and set aside.

3. Learned Assistant Public Prosecutor submits that the accused/petitioner was absent when the date was fixed for arguments. Learned counsel on record for accused submitted that he has no instructions, reasons thereby, the learned Court below has issued Non-Bailable Warrant.

4. Having heard the learned counsel for the parties, it appears that issuance of Non-Bailable Warrant by a Criminal Court without following proper

procedure is always deprecated by the Hon'ble Supreme Court with several reasons. However, in the present case, it appears that the case is at the end stage and date was fixed for arguments on behalf of the accused. The case was pending since 2016, ten years have already been elapsed, at this juncture, the Court below has, after recording no instructions of Advocate from the accused, issued Non-Bailable Warrant.

5. In my view, issuance of Non-Bailable Warrant by the Court below though not desirable, but attending facts and circumstances of the case, makes it clear that the learned Court below has no opportunity to follow procedure. However, considering the entire aspect, the order passed by the learned Court below for issuance of Non-Bailable Warrant against the present petitioner/accused is hereby recalled with a condition that the petitioner must appear before the trial Court, preferably ready with the arguments on the next date, without fail.

6. On the above observation, the instant Criminal Petition is disposed of. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand disposed of.

JUSTICE SUBHENDU SAMANTA

Date : 29.04.2026

SPP

THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL PETITION No.3480 of 2026

Dated 29.04.2026

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