

APHC010671312025



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

[3396]

FRIDAY, THE EIGHTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION No: 3825 / 2026

Between:

MATERNAL GRANDMOTHER OF VICTIM

...PETITIONER/DE FACTO COMPLAINANT

AND

1. THE STATE OF ANDHRA PRADESH, THROUGH THE STATION HOUSE OFFICER, BHAVANIPURAM PS, KRISHNA DISTRICT, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF A.P., AMARAVATI.

.... RESPONDENT / COMPLAINANT

2. K.SAMBASIVA RAO, S/O.PITCHAIAH, AGED ABOUT 62 YEARS, PRINCIPAL OF SRI KORA PUBLIC SCHEDULE, GOLLPUDI, R/O.TF-1, SAI RATNA APARTMENTS, DEVENENI STREET, GOLLAPUDI VILLAGE, VIJAYAWADA.

...RESPONDENT/ACCUSED

Counsel for the Petitioner/accused:

1.K.AISHWARYA CHOWDARY

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

2.KILARU NITHIN KRISHNA

The Court made the following:

ORDER:

1. The instant petition under Section 483(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ has been filed by the Petitioner/de *facto* complainant seeking cancellation of the bail granted to the Respondent No.2/Accused, *vide*

¹ for short 'BNSS'

order dated 08.04.2026 in CrI.M.P.No.307 of 2026 by the learned Special Judge for Speedy trial of offences under Protection of Children from Sexual Offences Act², Vijayawada in connection with Crime No.96 of 2026 of Bhavanipuram Police Station, for the offences under Sections 75(1), 64, 64(2)(f) of the Bharatiya Nyaya Sanhita, 2023³ and Sections 6 and 8 of POCSO Act.

2. The case of the prosecution, in brief, is that the *de facto* complainant is the grandmother of the victim girl, aged about 16 years, who has been suffering from autism since childhood. The mother of the victim girl passed away about ten years ago and the victim is studying 8th Class. As the victim girl was feeling weak, on 03.03.2026, the *de facto* complainant, along with her relative, Nuthulapati Kavya, took the victim to Latha Hospital at Swathi Centre, where during examination, the doctor questioned the victim as to why pieces of paper were found inside her vagina. The victim replied that she herself had inserted them so that her menstruation would not start. Since there was a severe foul smell emanating from her, the doctor advised them to shift the victim to Old Government General Hospital, Vijayawada. Accordingly, the victim was taken to Old GGH, Vijayawada, on 05.03.2026 and admitted there for treatment. When the *de facto* complainant firmly questioned the victim regarding the actual incident, the victim broke down in tears and stated that the Accused, who is the Principal of the School, had called her and behaved indecently with her by holding her waist and touching her cheeks and chest

² for short 'POCSO Act'

³ for short 'BNS'

with his hands. The victim further stated that the Accused warned her not to disclose the incident to anyone and threatened that, if she does so, he would cause harm to her grandparents. According to the victim, the accused behaved with her in the aforesaid indecent manner at the school on 25.02.2026. Based on the said complaint, Crime No.96 of 2026 was registered on the file of Bhavanipuram Police Station for the said offences.

3. Heard Ms.K. Aishwarya Chowdary, learned counsel or the Petitioner / *De facto* complainant, Sri Kilaru Nithin Krishna, learned counsel for Respondent No.2/Accused and Ms.K.Priyanka Lakshmi, learned Assistant Public Prosecutor for Respondent No.1 / State.

4. Learned counsel for the Petitioner submits that the victim girl in the present matter, aged about 16 years, has been suffering from Autism and is presently pursuing 8th class. Learned counsel further contends that, since the mother of the victim is deceased and her father abandoned her, she is presently under the care and custody of the Petitioner herein, who is her maternal grandmother. It is further submitted that the Police arrested Respondent No.2/Accused and remanded him to judicial custody on 12.03.2026. Thereafter, the Accused filed a bail application before the trial Court, which was dismissed on 18.03.2026. Immediately within a week thereafter, i.e., on 26.03.2026, the Accused filed another application seeking bail, and the same was allowed by the learned Special Judge on 08.04.2026, despite there being no change in circumstances.

5. Learned counsel for the Petitioner further argued that the Court below ignored the statement of the victim recorded by the lady Sub-Inspector, which clearly reflects the gravity and heinous nature of the offences allegedly committed by Respondent No.2/Accused by taking advantage of the mental condition of the victim, and nevertheless granted bail. It is further submitted that the observations made by the learned Special Judge while granting bail are irrational and biased. It is submitted that the victim was present in the Court hall at the time of hearing of the bail application and, having understood the submissions made on behalf of Respondent No.2/Accused, voluntarily approached the learned Special Judge and explained the heinous acts allegedly committed by the Accused against her. However, the learned Special Judge, without taking the same into consideration, erroneously granted bail to Respondent No.2 by treating the victim's autism as a ground to disbelieve her version. It is further submitted that Respondent No.2/Accused being the Principal and the victim being a student, there existed no animosity whatsoever between them for the victim to falsely implicate the Accused in a case of this nature.

6. Learned counsel would further submit that, prior to the arrest of Respondent No.2/Accused, his relatives visited the house of the Petitioner, threatened them to withdraw the case, and also offered a huge amount of money in that regard. Though the same was informed to the Police, no case was registered immediately. However, on 08.04.2026, a case in Crime No.151 of 2026 came to be registered for the offence punishable under Section 351(2)

of the BNS. Learned counsel would finally submit that the order passed by the learned Special Judge granting bail to the Accused is perverse, illegal, and contrary to settled principles of law, and therefore, the same is liable to be set aside.

7. Learned Assistant Public Prosecutor conceded that the relatives of the Accused approached the Petitioner herein for compromising the matter and threatened them to withdraw the case and based on the complaint given by the Petitioner, another case in Crime No.151 of 2026 has been registered.

8. Learned counsel for Respondent No.2/Accused opposed the petition and submitted that Respondent No.2 has been working in the institution for the last 46 years and that there are no similar antecedents against him. It is further submitted that the potency test of the Accused is still pending for report. He further contended that the alleged incident of threat by the family members of the Accused, purportedly made to compel withdrawal of the case, is stated to have taken place on 10.03.2026, whereas the complaint in that regard was lodged only on 08.04.2026, i.e., the very date on which the Accused was granted bail. He would further submit that, after his release on bail, the Accused never attempted to tamper with the evidence. It is further submitted that the alleged incident is said to have occurred in the washroom of the school, but none of the students witnessed the same or informed anyone about such incident. It is also contended that no affidavit has been filed by the de facto complainant in support of her allegations. Learned counsel would finally submit that there are no infirmities or illegalities in the

order passed by the learned Special Judge and, therefore, no grounds exist to invoke the powers under Section 483(3) of the BNSS. Hence, he prayed for dismissal of the petition.

9. This Court has carefully considered the rival submissions and perused the material available on record.

10. It is a settled law *vide* a catena of decisions from the Hon'ble Supreme Court and this Court that the following illustrative list of principles are to be taken into consideration while considering an application for bail:

a. 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;

b. reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;

c. reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;

d. character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;

e. larger interest of the public or the State and similar other considerations.

11. The present petition is filed seeking cancellation of bail granted to Respondent No.2 / Accused by the learned Special Judge in a case registered for the offences under the provisions of the POCSO Act, involving a minor victim girl aged about 16 years, who is admittedly suffering from Autism from

her childhood. The material placed before this Court further discloses that the victim lost her mother long back and was abandoned by her father and since then she has been under the care and custody of the Petitioner herein, who is none other than her maternal grandmother. The record further discloses that Respondent No.2 / Accused was arrested on 12.03.2026 and remanded to judicial custody. The first bail application filed by him in CrI.M.P.No.255 of 2026 came to be dismissed on 18.03.2026. However, within a period of one week thereafter, another bail application in CrI.M.P.No.307 of 2026 was filed and the learned Special Judge granted bail *vide* order dated 08.04.2026.

12. The relevant observations made by the learned Special Judge in the impugned order read as follows:

“16. Perused the record and the citations filed by the counsel for the petitioner/accused. The petitioner/accused was in judicial custody since 12.03.2026. The previous bail application filed by the petitioner/accused in CrI.M.P.No.255/2026 was dismissed by this court on 18.03.2026. The learned counsel for the petitioner/accused argued that the victim girl gave inconsistent versions with regard to the alleged offence. The merits of the case cannot be decided at this stage.

17. As seen from the record, investigation is almost completed. Statement of the victim girl u/s. 183 of BNSS was already recorded. Potency test to the accused was also completed and the report is yet to be received. The learned Special Public Prosecutor submitted that the family members of accused is troubling the victim girl and her family members to compromise the case. Hence, in view of the facts and circumstances of the case, after hearing both sides, this court is inclined to grant bail to the petitioner/accused with certain conditions. Accordingly, the point is answered.”

13. On a careful reading of the impugned order, this Court finds considerable force in the submissions made by the learned counsel for the

Petitioner that no substantial change in circumstances was shown between dismissal of the earlier bail application and filing of the subsequent bail application warranting reconsideration of the matter.

14. It is a settled principle of law that successive bail applications, particularly in serious offences cannot be entertained in a routine or mechanical manner. Successive bail applications are permissible under the changed circumstances, but the change of circumstances must be substantial one, which has a direct impact on the earlier decision and not merely cosmetic changes which are of little or no consequences at all. Without such satisfaction, the subsequent bail application would be nothing but seeking review of the earlier rejection order, which is not permissible. While entertaining such subsequent bail applications, the Court has a duty to consider the reasons and grounds on which the earlier bail application was rejected and what are the fresh grounds which persuade it warranting the evaluation and consideration of the bail application afresh and to take a view different from the one taken in the earlier application. There must be change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. The impugned order, however, does not disclose any such new circumstance. On the contrary, the allegations against Respondent No.2 pertain to sexual misconduct against a child victim suffering from Autism, allegedly committed by the Principal of the institution where the victim was studying. *Prima facie*, the allegations indicate

abuse of authority and exploitation of the vulnerability of a child with special needs.

15. In *State of Karnataka v. Sri Darshan etc.*,⁴ the Hon'ble Supreme Court categorically held that the gravity of the offence, likelihood of witness intimidation and the requirement of fair trial are paramount considerations while dealing with bail in heinous crimes. It was further observed therein that grant of bail without proper consideration of the seriousness of allegations and risks of interference with trial would amount to a perverse exercise of discretion warranting interference by superior Courts.

16. In *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav*⁵, the Hon'ble Supreme Court held that, though an accused has a right to make successive applications for grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.

17. In the present case, the learned Special Judge granted bail within a short span after dismissal of the earlier bail application, without recording any fresh or compelling circumstances justifying reconsideration. Such exercise, in the considered view of this Court, is contrary to settled principles governing successive bail applications.

⁴ 2025 SCC OnLine SC 1702

⁵ (2004) 7 SCC 528

18. In *Ram Govind Upadhyay v. Sudarshan Singh*⁶, the Hon'ble Supreme Court held that the nature of the offence is one of the basic considerations for the grant of bail is that more heinous is a crime, the greater is the chance of rejection of the bail. Whereas, in the instant case, the allegations pertain to grave offences under the provisions of the POCSO Act involving a minor girl aged about 16 years, who is admittedly suffering from Autism. The material on record further discloses that the victim is an extremely vulnerable child, whose mother died long back and who is presently under the care and protection of her grandmother, the de facto complainant. The accusation against the accused is not of a trivial nature, but of a serious sexual offence committed against a child with mental disability, attracting stringent punishment under the POCSO Act. Therefore, the gravity of the offence assumes greater significance while considering the propriety of grant of bail. In such circumstances, the impugned order granting bail to the Accused, without properly appreciating the gravity of the offence and the vulnerable condition of the victim, is liable for interference of this Court.

19. In *Ash Mohammad v. Shiv Raj Singh @ Lalla Bahu & Anr*⁷, the Hon'ble Supreme Court emphasized that in serious offences, Courts are required to adopt a higher degree of caution and sensitivity while granting bail, keeping in mind the societal impact of the crime.

20. Unfortunately, the impugned order does not reflect such cautious scrutiny. The learned Special Judge appears to have made observations

⁶ (2002) 3 SCC 598

⁷ (2012) 9 SCC 446

about the mental condition of the victim which create doubt about her version even at the bail stage. Such an approach is improper, especially when the victim is a child suffering from Autism. The POCSO Act is a special legislation enacted with the avowed object of protecting children from sexual offences and ensuring a child-sensitive judicial process. While dealing with victims with special needs, the Courts are expected to adopt greater sensitivity and care. In the present case, the victim is admittedly suffering from Autism. Her vulnerability and dependency are relevant considerations which ought to have weighed with the learned Special Judge while evaluating the bail application.

21. Further, the contention of the learned counsel for the Petitioner that the victim herself appeared before the trial Court and narrated the acts committed by the Accused also assumes significance. Though this Court is not expressing any final opinion on merits, such circumstance could not have been lightly brushed aside while considering bail in a serious offence under the POCSO Act.

22. It is apposite to consider the allegation regarding intimidation of the victim side. The learned Assistant Public Prosecutor fairly admitted before this Court that another case in Crime No.151 of 2026 was registered based on allegations that the daughter of the Accused along with another person went to the house of the *De facto* complainant tried to influence her and the victim girl and also threatened them to withdraw the case. The same was also supported by the written submissions filed by the Special Public Prosecutor of the POCSO Court, Vijayawada.

23. In *Kalyan Chandra Sarkar* (referred *supra*), the Hon'ble Supreme Court held that if the Accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.

24. Though learned counsel for Respondent No.2 contended that the complaint regarding intimidation was belatedly lodged, the fact remains that a separate crime was registered during pendency of the proceedings. Such circumstance *prima facie* supported the apprehension expressed by the Petitioner as well as Prosecutor regarding possible interference with the victim side. Furthermore, in view of the contention of the learned counsel for Respondent No.2 /Accused that no affidavit was filed by *De facto* complainant in support of the allegations, the Petitioner /*De facto* complainant, who is the maternal grandmother of the victim and who lodged the present case on behalf of the victim, filed an affidavit submitting the facts that were led to filing of the present case and things that were happened before the Special Court on the date of granting bail to the Accused. Therefore, the contention that, no affidavit is filed by the *De facto* complainant, is wholly untenable. However, in criminal law, particularly in offences under the POCSO Act, the prosecution case cannot be discarded merely on the ground that no affidavit was filed by the *De facto* complainant.

25. In ***Puran v. Rambilas and another***⁸, the Hon'ble Supreme Court categorically held that bail can be cancelled not only when the Accused tampers with evidence or threatens witnesses, but also where the order granting bail itself is perverse and passed ignoring material considerations. Likewise, in ***Mahipal v. Rajesh Kumar***⁹, the Hon'ble Supreme Court held that an order granting bail becomes vulnerable when it is founded upon irrelevant considerations or when material aspects are ignored.

26. A Two-Judge Bench of the Hon'ble Supreme Court in a recent judgment in ***X v. State of Uttar Pradesh and another***¹⁰, while cancelling the bail granted by the High Court in POCSO case, categorically held as follows:

“12. It is settled law that the mere filing of a chargesheet does not, by itself, preclude consideration of an application for bail. However, while assessing such an application, the Court is duty-bound to have due regard to the nature and gravity of the offence and the material collected during investigation. The offences alleged in the present case are heinous and grave involving repeated penetrative sexual assault upon a minor victim committed under armed intimidation and accompanied by recording of the acts for the purpose of blackmail. Such conduct has a devastating impact on the life of the victim and shakes the collective conscience of society.

13. The High Court, while granting bail to Respondent No. 2 – accused, failed to take into account the nature and gravity of the offences and the statutory rigour under the provisions of the POCSO Act. The omission to notice that the chargesheet had already been filed, coupled with the prima facie material emerging from the victim's statements renders the exercise of discretion by the High Court manifestly erroneous.....”

(emphasis supplied)

27. It is submitted by the learned counsel for the Petitioner that the victim, who was present in the Court hall during the hearing of the bail

⁸ (2001) 6 SCC 338

⁹ (2020) 2 SCC 118

¹⁰ 2026 SCC OnLine SC 43

application, voluntarily approached the learned Special Judge and explained the heinous acts committed by Respondent No.2 /Accused and the same is buttressed by the written submissions filed by the Special Public Prosecutor of the trial Court. However, without referring to the same in the impugned order, the learned Special Judge erroneously granted bail by doubting the victim's version on the ground of her autism.

28. In the present case, the impugned order suffers from serious infirmities. The learned Special Judge failed to assign cogent reasons for entertaining a successive bail application within a short span after dismissal of the earlier application, and did not adequately consider the gravity of the allegations, the vulnerability and mental condition of the victim, the possibility of intimidation, and the special nature of the offences under the POCSO Act. Though this Court is conscious of the distinction between rejection of bail and cancellation of bail, it is equally well settled that where an order granting bail is shown to be perverse, arbitrary, illegal, or passed in contravention of settled legal principles, this Court would be justified in exercising jurisdiction. Ordinarily, this Court would be slow to interfere with an order granting bail, however, where such order is founded on irrelevant considerations or suffers from manifest perversity, it becomes amenable to judicial interference.

29. Having regard to the settled principles of law referred to *supra*, the nature and gravity of the allegations, the vulnerability and mental condition of the victim, the absence of any substantial change in circumstances warranting entertainment of the successive bail application, and the

subsequent allegations relating to intimidation of the victim side, this Court is of the considered opinion that the order dated 08.04.2026 passed by the learned Special Judge granting bail to Respondent No.2/Accused is unsustainable and liable to be set aside.

30. In the light of the aforementioned premises, this Court feels it necessary to direct the Registrar Judicial to place the matter before the Hon'ble the Chief Justice for appropriate measures to prevent the above type of instances.

RESULT

31. Accordingly, the Criminal Petition is allowed. The order dated 08.04.2026 passed in CrI.M.P.No.307 of 2026 by the learned Special Judge granting bail to Respondent No.2/Accused is hereby set aside and the bail granted to Respondent No.2 stands cancelled. Respondent No.2/Accused shall surrender before the concerned Court **within three (03) days** from the date of receipt of a copy of this order, failing which the concerned Police are at liberty to take necessary steps in accordance with law to secure his presence and send him to judicial custody.

32. As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed.

Dr. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date:08.05.2026
Dinesh

THE HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION No.3825 of 2026

DATE:08.05.2026

Dinesh