

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

THURSDAY ,THE NINETEENTH DAY OF FEBRUARY

TWO THOUSAND AND TWENTY SIX

:PRESENT:

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO ✓

CRIMINAL PETITION NO: 5750 OF 2025



Between:

Garikina Gali Raju, S/o Errayya, Aged about 34 Years, Door No.1-1, ✓
Palmannapeta Village, Payakaraopeta Mandal, Visakhapatnam
District.

...Petitioner/Accused No.A-1

AND

1. The State of Andhra Pradesh, (Payakaraopeta Police Station, Visakhapatnam District) Rep. by the Public Prosecutor, High Court of Andhra Pradesh, Amaravati.

...Respondent/Complainant

2. Garikana Pushpa Bhavani, W/o. Garikina Gali Raju, D/o. Koda Koteswarao, aged 26 about years, R/o.D.No.1-1, Palamannapeta Village, Payakaraopeta Mandal, Anakapalle District.

(Respondent No.2 is impleaded as per the Court order dated 05.06.2025 in I.A.No.1 of 2025 in CrI.P.No.5750 of 2025.) ✓

...Respondent No.2/Defacto Complainant

Petition under Section 438 of Cr.P.C is filed praying that in the circumstances stated in memorandum of grounds of Criminal Petition, the High Court may be pleased to direct the respondent police to enlarge the petitioners/A-1 on bail in the event of arrest in connection with in Crime No.111/2025 of Payakaraopeta Police Station, Visakhapatnam District;

The petition coming on for hearing, upon perusing the Petition and memorandum of grounds of criminal petition and the earlier order of the High Court dated. 23.07.2025, 29.07.2025, 05.08.2025, 06.11.2025, 12.11.2025 , 26.11.2025 , 17.12.2025 & 12.02.2026 made herein and upon hearing the arguments of Sri RAM BABU DEVAVARAPU, Advocate for the Petitioner and of PUBLIC PROSECUTOR, for the Respondent No.1 and of Sri. T.V. JAGGI REDDY, Advocate for the Respondent No.2, the Court made the following;



ORDER:

Criminal Petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNS') by the Petitioner/Accused No.1 for granting of pre-arrest bail in connection with Crime No.111 of 2025 of Payakaraopeta Police Station, Visakhapatnam District, registered for the alleged offence punishable under Section 85, 89, 351(2) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for brevity 'the BNS') and Sections 3 & 4 of the Dowry Prohibition Act, 1961 (for brevity 'the D.P.Act') and Section 92(b) of the Disability Act.

2. Sri Posani Venkateswarlu, learned Senior Counsel appearing for Sri Ram Babu Devavarapu, learned counsel for the Petitioner, contends that the Petitioner is the husband of Respondent No.2 and is employed as a Financial Analyst with Bank of America. It is submitted that all the other accused in the subject crime have already been enlarged on bail, except the Petitioner herein. Except for the offence under Section 313 of 'the I.P.C.,' the remaining alleged offences are punishable with imprisonment of less than seven years.

3. Learned Senior Counsel further submits that there is no contemporaneous material or medical record to substantiate the allegation of forced abortion. It is pointed out that Respondent No.2 did not undergo hospitalization at any stage following the alleged miscarriage. The marriage between the Petitioner and Respondent No.2 was solemnized on 27.01.2023, and the alleged miscarriage is stated to have occurred on 30.12.2024.

However, the complaint came to be lodged only on 16.05.2025, resulting in an unexplained delay of nearly six months.

4. Learned Senior Counsel furthermore submits that the parents-in-law of Respondent No.2 were already granted anticipatory bail in CrI.P.No.5749 of 2025. The learned Senior Counsel submits that the relatives and followers of Respondent No.2 had brutally assaulted the Petitioner and his family members, ensuring that no case was registered against Respondent No.2 or her associates. Only when the Petitioner approached the Superintendent of Police, Crime No.172 of 2025 came to be registered against Respondent No.2 for the offences punishable under Sections 329(4), 118(1), 115(2), 324(4), 351(2), and 79 read with Section 3(5) of 'the BNS.'

5. It is contended that the Petitioner has been taking care of the financial responsibilities relating to the education of the minor child born to the parties. The material part of the investigation is completed. The Petitioner has a fixed place of residence and there is no possibility of his absconding or tampering with the evidence. Learned Senior Counsel assures that the Petitioner is willing to abide by any conditions that may be imposed by this Court and therefore prays that the Petition be allowed.

6. *Per contra*, Sri T.V.Jaggi Reddy, learned Counsel for Respondent No.2, vehemently opposed the grant of pre-arrest bail to the Petitioner. He submits that Respondent No.2, the de-facto complainant, is one hundred percent visually impaired, and that the Petitioner subjected her to grave acts of cruelty. It is alleged that the Petitioner maintained an illicit relationship with another

woman, and that the WhatsApp messages exchanged between them substantiate the said allegation.

7. Learned Counsel for Respondent No.2 further submits that the Petitioner administered certain pills to Respondent No.2, which resulted in her miscarriage. It is also contended that the Petitioner continuously demanded additional dowry and subjected Respondent No.2 to severe harassment. Having regard to the nature of allegations and the fact that the offence relating to causing miscarriage without the consent of the woman is punishable with imprisonment exceeding seven years, the Petitioner is not entitled to the extraordinary relief of anticipatory bail, and the Petition deserves to be dismissed.

8. On the other hand, Sri A. Sai Rohith, learned Assistant Public Prosecutor vehemently opposed granting of pre-arrest bail contending that the investigation is at a nascent stage and the custodial interrogation of the Petitioner is imperative for eliciting material facts. It is submitted that if the Petitioner is granted pre-arrest bail, there is a grave apprehension that he may not cooperate with the investigation and may evade the process of law.

9. The prosecution also apprehends that the Petitioner may influence witnesses or tamper with evidence, thereby obstructing the fair and impartial investigation. In view of the seriousness of the allegations and the potential risk to the progress of the investigation, it is prayed that the instant bail application be dismissed.

10. Thoughtful consideration is bestowed on the arguments advanced by the learned Counsel for both sides. I have perused the entire record.

11. In the light of the case of the prosecution and the contentions of the learned Counsel for both the sides, now the point for consideration is:

"Whether the Petitioner is entitled for grant of pre-arrest bail?"

12. As seen from the record there is no flight risk as the Petitioner has got a permanent abode. He is a resident of Palmannapeta Village, Payakaraopeta Mandal, Visakhapatnam District. He is working as a Financial Analyst for Bank of America. He is also taking care of the financial aspects of the child of the Respondent No.2 and the Petitioner.

13. The marriage between the Petitioner and Respondent No.2 took place on 27.01.2023. Respondent No.2 doesn't have proper eyesight because of a problem in her retina. This fact was known to the Petitioner before marriage. Respondent No.2 alleged that the Petitioner maintained one extra marital relationship with one Yellamalli Rajeswari and harassed her along with his relatives for bringing additional dowry. In fact on a careful perusal of the averments of the complaint of Respondent No.2 and other statements recorded by the Investigating Officer of the Petitioners, there are no averments about the specific date and time of the alleged harassment. The allegations are ex-facie omnibus in nature.

14. The alleged miscarriage was taken place on 30.12.2024, whereas as the Petitioner has chosen to lodge a report on 16.05.2025. Thus, there is a

delay of six months. After the alleged abortion the Petitioner was not hospitalized. There is no record to show that.

15. In this regard it is apposite to refer to the judgment of the High Court of Allahabad, in **Mukesh Bansal v. State of U.P.**¹ at paragraph Nos.48 and 49, held as under:

"48. Thus assessing the totality of the circumstances, object and the allegation of misuse of this piece of legislation in a shape of Section 498A IPC, the Court is proposing the safeguards after taking the guidance from the judgment of Hon'ble the Apex Court in the case of Social Action Forum for Manav Adhikar v. Union of India (Supra) keeping in view the growing tendency in the masses to nail the husband and all family members by a general and sweeping allegations.

49. Thus, It is directed that:—

(i) No arrest or police action to nab the named accused persons shall be made after lodging of the FIR or complaints without concluding the "Cooling-Period" which is two months from the lodging of the FIR or the complaint. During this "Cooling-Period", the matter would be immediately referred to Family Welfare Committee(hereinafter referred to as FWC) in the each district.

(ii) Only those cases which would be transmitted to FWC in which Section 498-A IPC along with, no injury 307 and other sections of the IPC in which the imprisonment is less than 10 years.

(iii) After lodging of the complaint or the FIR, no action should take place without concluding the "Cooling-Period" of two months. During this "Cooling-Period", the matter may be referred to Family Welfare Committee in each districts.

(iv) Every district shall have at least one or more FWC (depending upon the geographical size and population of that district constituted under the District Legal Aid Services Authority) comprising of at least THREE MEMBERS. Its constitution and function shall be reviewed periodically by the District & Sessions Judge/Principal Judge, Family Court of that District, who shall be the Chairperson or Co-chairperson of that district at Legal Service Authority.

(v) The said FWC shall comprise of the following members:—

(a) a young mediator from the Mediation Centre of the district or young advocate having the practices up to five years or senior most student of Vth year, Government Law College or the State University or N.L.U.s. having good academic track record and who is public spirited young man, OR;

(b) well acclaimed and recognized social worker of that district having clean antecedent, OR;

(c) retired judicial officers residing in or nearby district, who can devote time for the object of the proceeding OR;

(d) educated wives of senior judicial or administrative officers of the district.

(vi) The member of the FWC shall never be called as a witness.

¹2022 SCC OnLine All 395

(vii) Every complaint or application under Section 498A IPC and other allied sections mentioned above, be immediately referred to Family Welfare Committee by the concerned Magistrate. After receiving the said complaint or FIR, the Committee shall summon the contesting parties along with their four senior elderly persons to have personal interaction and would try to settle down the issue/misgivings between them within a period of two months from its lodging.

The contesting parties are obliged to appear before the Committee with their four elderly persons (maximum) to have a serious deliberation between them with the aid of members of the Committee.

(viii) The Committee after having proper deliberations, would prepare a vivid report and would refer to the concerned Magistrate/police authorities to whom such complaints are being lodged after expiry of two months by inserting all factual aspects and their opinion in the matter.

(ix) Continue deliberation before the Committee, the police officers shall themselves to avoid any arrest or any coercive action pursuant to the applications or complaint against the named accused persons. However, the Investigating Officer shall continue to have a peripheral investigation into the matter namely preparing a medical report, injury report, the statements of witnesses.

(x) The said report given by the Committee shall be under the consideration of I.O. or the Magistrate on its own merit and thereafter suitable action should be taken by them as per the provision of Code of Criminal Procedure after expiry of the "Cooling-Period" of two months.

(xi) Legal Services Aid Committee shall impart such basic training as may be considered necessary to the members of Family Welfare Committee from time to time(not more than one week).

(xii) Since, this is noble work to cure abrasions in the society where tempos of the contesting parties are very high that they would melow down the heat between them and try to resolve the misgivings and misunderstanding between them. Since, this is a job for public at large, social work, they are acting on a pro bono basis or basic minimum honorarium as fixed by the District & Sessions Judge of every district.

(xiii) The investigation of such FIRs or complaint containing Section 498A IPC and other allied sections as mentioned above, shall be investigated by dynamic Investigating Officers whose integrity is certified after specialized training not less than one week to handle and investigate such matrimonial cases with utmost sincerity and transparency.

(xiv) When settlement is reached between the parties, it would be open for the District & Sessions Judge and other senior judicial officers nominated by him in the district to dispose of the proceedings including closing of the criminal case."

16. The Hon'ble Apex Court in **Shivangi Bansal v. Sahib Bansal**², at paragraph No.26 held as under:

"26. The transfer petitions and special leave petitions are disposed of in terms of the above order. The guidelines framed by the High Court of Allahabad in the impugned judgment dated 13.06.2022 in Criminal Revision No. 1126 of 2022 vide paras 32 to 38, with regard to 'Constitution of Family

²2025 SCC OnLine SC 1494

Welfare Committees for safeguards regarding misuse of Section 498A, IPC shall remain in effect and be implemented by the appropriate authorities."

17. Upon thoughtful consideration to the rival submissions and on perusal of the entire material placed on record, this Court finds that the allegations levelled against the Petitioner, except the offence under Section 313 of 'the I.P.C.,' relate to offences punishable with imprisonment below seven years, and the prosecution version itself discloses no contemporaneous medical record, hospitalization, or immediate complaint to substantiate the allegation of a forced miscarriage. The admitted delay of nearly six months in lodging the complaint, coupled with the omnibus nature of the allegations without specific dates or particulars of alleged harassment, materially weakens the prosecution case at this stage.

18. The Petitioner is a permanent resident with a fixed abode, employed as a Financial Analyst with Bank of America, and has been taking care of the educational and financial needs of the minor child, thereby negating any flight risk. It is also relevant that all co-accused, including the parents-in-law of Respondent No.2, have already been granted anticipatory bail, and the Petitioner himself is the complainant in Crime No.172 of 2025 registered against Respondent No.2 and her associates for assault. Further, the guidelines issued by the High Court of Allahabad in **Mukesh Bansal supra** duly affirmed by the Hon'ble Supreme Court in **Shivangi Bansal supra**, emphasize the need for safeguards in matrimonial disputes and caution against precipitative arrests during the cooling-off period. In the totality of these

circumstances, and as the material portion of the investigation is already completed, this Court is satisfied that custodial interrogation of the Petitioner is not warranted, and that the apprehensions of the prosecution can be adequately addressed by imposing conditions. Therefore, this Court is of the opinion that the Petitioner has made out a fit case for grant of pre-arrest bail.

19. In the result, the Criminal Petition is allowed with the following conditions:

- i. In the event of his arrest, the Petitioner/Accused No.1 shall be enlarged on bail subject to his executing a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only), with two sureties for the like sum each to the satisfaction of the arresting police officials;
- ii. The Petitioner/Accused No.1 shall make himself available for investigation as and when required;
- iii. The Petitioner/Accused No.1 shall not cause any threat, inducement or promise to the prosecution witnesses;
- iv. The Petitioner/Accused No.1 shall appear before the Station House Officer concerned once in a week i.e., on every Saturday between 10.00 a.m. and 5.00 p.m., till filing of the charge sheet.
- v. The Petitioner/Accused No.1 shall not leave the State of Andhra Pradesh without the express permission from the Station House Officer concerned.

- vi. The Petitioner/Accused No.1 shall surrender his passport, if any, to the investigating officer. If he claims that he does not have passport, he shall submit an affidavit to that effect to the Investigating Officer.

SD/-K.V.RAGHAVULU
ASSISTANT REGISTRAR

SECTION OFFICER

//TRUE COPY//

To,

1. The Station House officer, Payakaraopeta Police Station, Visakhapatnam District
2. One CC to Sri. Ram Babu Devavarapu, Advocate [OPUC]
3. One CC to Sri. T.V. Jaggi Reddy, Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR, High Court of AP [OUT]
5. One spare copy

HIGH COURT

DR.YLR,J

DATED: 19.02.2026

BAIL ORDER

CRLP.No. 5750 of 2025

ALLOWED

