

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

THURSDAY, THE TWENTY THIRD DAY OF OCTOBER

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 8966 OF 2025



Between:

Chimata Anjaneyulu, S/ o Tirupathaiah, aged 35 years, Occ Cultivation, R/o Kesanupalli village, Narasaraopet Mandal, Palnadu Distric

Petitioner/Accused

AND

1. The State of Andhra Pradesh, b SHO, Narasaraopet Rural Police Station, Palnadu District, Rep. by its Public Prosecutor, High Court of Andhra Pradesh at Amaravati

...Respondent/Complainant

2. Marri Chinthaiah, S/o. Lakshmi Narayana, age 55 years, Kanaparru Village, Nadendla Mandal, Palnadu District.

Respondent No.2 is impleaded as per the Court order dated 18.09.2025 in CrI.P.No.8966 of 2025.

...Respondent/Defacto Complainant

Petition under Sections 480 & 483 of BNSS praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to enlarge the Petitioner on bail in connection with Sc. No. 598 of 2025 on the file of the court of the XIII Addl. District and Sessions Judge, Narasaraopet.

The Petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of SRI SASANKA BHUVANAGIRI Advocate for the Petitioner, and of PUBLIC PROSECUTOR, for the Respondent No.1, the Court made the following

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 8966/2025

ORDER:

The Criminal Petition has been filed under Sections 480 and 483 of the BharatiyaNagarik Suraksha Sanhita, 2023¹ seeking to enlarge the Petitioner/Accused No.1 on bail in S.C.No.598 of 2025 on the file of the learned XIII Additional District and Sessions Judge, Narsaraopet², in Crime No.94 of 2024 of Narasaraopet Rural Police Station, Palnadu District, registered against the Petitioner/Accused No.1 for the offences punishable under Sections 85, 103(1) read with 3 (5) of the Bharatiya Nyay Sanhita, 2023³.

2. Heard the learned counsel for the petitioner, learned legal aid counsel for the 2nd respondent, and the learned Assistant Public Prosecutor. Perused the record.

3. Sri Syed Khader Mastan, learned legal counsel for the 2nd respondent, while adopting the arguments advanced by the learned Assistant Public Prosecutor, opposed the grant of bail to the petitioner. He relied upon the decision of the Hon'ble Apex Court in **X v. State of Rajasthan**⁴ wherein at para Nos.14 to 20 it is held as under:

"16... Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused."

¹the BNSS

²the Trial Court

³the BNS

⁴ Special Leave Petition (Criminal) No.13378 of 2024

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.

17. In the case on hand, the victim is yet to be examined. Her mother who, according to the case of the prosecution, is an eye-witness has also not been examined so far. The High Court seems to have looked into few discrepancies in the FIR compared to the statement of victim recorded under Section 164 of the Code. This could not have been a good ground to exercise discretion in favour of an accused in a serious offence like rape.

18. However, we are of the view that now at this point of time, we should not disturb the impugned order passed by the High Court. At the same time, we should impose appropriate conditions so as to ensure that the Respondent No.2 - herein and the co-accused do not influence the prosecution witnesses or try to tamper with the evidence in any manner. Even while enlarging the accused on bail, the High Court should have been conscious of this fact. The High Court has thought fit to only ask the Respondent No.2 herein to furnish solvent surety of an amount of Rs. 50,000/-without imposing any appropriate conditions.

19. We wonder if the High Court was made aware of the fact that the victim and her mother as well as both the accused are residing in the very same village viz. Magriyan Ki Dhani Satyaya, District Jaisalmer, Rajasthan.

20. In such circumstances, without disturbing the order of bail passed by the High Court, we direct that the Respondent No.2 herein shall not enter the said village till the completion of the trial. As we have asked the respondent No.2 accused not to enter the village, he shall furnish address of his new residence to the investigating officer attached with the concerned police station. The Respondent No.2 shall not try to influence any of the prosecution witnesses in any manner or directly or indirectly try to contact the victim and her family”.

4. In another decision in **State of Madhya Pradesh v. Kajad**⁵, relied upon by the learned legal aid counsel for the 2nd respondent wherein at para No.8 it is held as under:

"8...It has further to be noted that the factum of the rejection of his earlier bail application bearing Misc. case No. 2052 of 2000 on 5.6.2000 has not been denied by the respondent. It is true that successive bail applications are permissible under the changed circumstances. But without the change in the circumstances the second application would be deemed to be seeking review of the earlier judgment which is not permissible under criminal law as has been held by this Court in Hari Singh Mann v Harbhajan Singh Bajwa and another, 2000(4) RCR (Criminal) 650 (SC): 2001(1) SCC 169 and various other judgments".

5. In another decision relied upon by the learned legal aid counsel for the 2nd respondent in Criminal Petition No.3940 of 2025, dated 25.04.2025, a single judge of this at para Nos.12 and 13 held as under:

"12...In this context, it is pertinent to refer the decision in Rahul Malik vs. State of Himachal Pradesh', wherein the High Court of Himachal Pradesh held that:

Needless to say that after dismissal of a bail petition, the bail petitioner, in a succeeding petition, has to successfully show before the Court, the change in the circumstances. It is well settled that the accused has a right to maintain successive bail petitions under changed circumstances and the change in the circumstances must be substantial having direct and consequential impact on the previous decision, whereby the bail was denied. The change(s) in the circumstances must not be trivial or cosmetic having no significance or of little or no consequence. It is also well settled that without substantial change in the circumstances, the subsequent bail petition would be merely review sought to the earlier petition, which was rejected, and such review is not permissible under the law. It is the duty of the Court to consider all the reasons and grounds whereupon the earlier bail petition was rejected and what are the fresh grounds worth consideration and ultimately warranting evaluation of fresh bail petition and leading the Court to take a divergent view from that of the earlier view rejecting the petition. There must be change in fact situation or in law, compelling the Court to take different view. Thus, the Court has a narrow area to reconsider the successive bail petition and this narrow area is only change in circumstances.

⁵ 2001 (7) SCC 673

13. In *Jogia @ Jogendra Jena Vs. State of Odisha*, the High Court of Orissa held that:

"Successive bail applications are maintainable but there has to be material change in the fact situation and not mere cosmetic change. Successive bail application on the same grounds which were available to the accused at the time of consideration of the earlier bail application would not be maintainable. Neither a ground that the earlier bail application was not properly placed by the previously engaged counsel can be entertained."

6. As seen from the record, this is the second bail application filed by the petitioner. Earlier, the petitioner had filed Crl.P. No. 6827 of 2025, which was dismissed on 22.07.2025, while enlarging Accused Nos. 2 to 4 on regular bail. The allegation against the petitioner is that he had committed an offence punishable under Section 103 of 'the BNS'. The petitioner was arrested on 26.04.2025. He has been in judicial custody for the past 150 days. He is a permanent resident of Kesanupalli Village, Narasaraopet Mandal, Palnadu District, having a fixed place of abode. He is working as a coolie and had earlier worked as an auto driver.

7. After thorough investigation, the charge sheet has been filed, and the case has been committed by the learned Magistrate concerned to the learned Trial Court. The case in S.C. No.598 of 2025 is now pending before the learned Trial Court. The petitioner and the deceased have four children, who are residing with their paternal grandmother. The grandmother, being old aged and suffering from health issues, is unable to look after the four children, who are pursuing pre-primary education. Learned counsel for the petitioner submits that the grandmother is unable to maintain and take care of the children in the absence of the petitioner. The allegation against the petitioner is

that he murdered his wife suspecting her fidelity. However, the learned counsel for the petitioner contends that the postmortem report reveals that the deceased consumed pesticide, indicating that it was a case of suicide rather than homicide.

8. There is a change in circumstances from the date of dismissal of the earlier bail application to the date of filing of the present application. The case has now been registered as a Sessions Case, made over by the learned Sessions Judge of the district and pending before the learned Trial Court. It would take considerable length of time for the learned Trial Court concerned to take up the matter for trial. Keeping the petitioner in judicial custody for an indefinite period would not serve any useful purpose.

9. On the other hand, the petitioner's four children are of tender ages and require support of their father/petitioner/accused for their nourishment, well-being, and education. Except for the petitioner's aged mother, there is no one to take care of the four children. The petitioner has already been in judicial custody for more than 150 days. Earlier, the bail application was dismissed with a view to ensure that the investigation was not interfered with, witnesses were not threatened, and the investigation should reach to its logical conclusion. Now, with the registration of the Sessions Case and its make over to the learned Trial Court, there is a change in circumstances.

10. For the reasons mentioned above, the request for releasing the petitioner on bail appears to be convincing and reasonable. In the result, the Criminal Petition is allowed with the following stringent conditions:

- i. The Petitioner/Accused No.1 shall be enlarged on bail subject to 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 learned I Additional Civil Judge (Junior Division, Narasaraopet).
- ii. The Petitioner/Accused No.1 shall not try to influence any of the prosecution witnesses in any manner or directly or indirectly try to contact the victim and her family.
- iii. The Petitioner/Accused No.1 shall appear before the learned Sessions Judge on each adjournment.
- iv. The Petitioner/Accused No.1 shall not leave the limits of the State of Andhra Pradesh without prior permission from the Station House Officer concerned.
- v. The Petitioner/Accused No.1 shall take care of his four children, including imparting well education.
- vi. In this regard, the District Women and Child Welfare and Protection Officer of Palnadu District shall depute one of his officers to the village of the petitioner and oversee the welfare and wellbeing of the four children and submit periodical report once in a month to the Superintendent of Police, Palnadu, District till the conclusion of trial.
- vii. Similarly, the Panchayat Secretary of the village of the petitioner/Kesanupalli Village, Narasaraopet Mandal shall also monitor the welfare and wellbeing of the four children of the petitioner and inform the Station House Officer of Narasaraopet Rural Police Station once a month.

9. The above directions are issued to safeguard interest, welfare and wellbeing, including proper nourishment and education of the four children of the petitioner and the deceased.

Sd/-Sk.Md.Rafi
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XIII Additional District and Sessions Judge, Narasaraopet, Guntur District
2. The First Additional Civil Judge (Junior Division), Narasaraopet, Guntur District
3. The Superintendent, Sub Jail, Narasaraopet, Palnadu District
4. The Station House Officer, Narasaraopet Rural Police Station, Palnadu District
5. The District Women and Child Welfare and Protection Officer, Palnadu District
6. The Panchayat Secretary, Kesanupally Village, Narasaraopet Mandal, Palnadu District
7. Marri Chinthaiah, S/o. Lakshmi Narayana, age 55 years, Kanaparru Village, Nadendla Mandal, Palnadu District. **(by RPAD)**
8. One CC to SRI. SASANKA BHUVANAGIRI Advocate [OPUC]
9. Two CCs to PUBLIC PROSECUTOR, High Court of Andhra Pradesh [OUT]
10. **One spare copy**

PSR

HIGH COURT

DR.YLR,J

DATED:23/10/2025

BAIL ORDER

CRLP.No.8966 of 2025

ALLOWED

