



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

[3521]

FRIDAY, THE TWELFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 10172/2025

Between:

RACHAKUNTA JAYASHANKAR, S/O. R.NARAYANA, AGED ABOUT 59
YEARS, OCC. CULTIVATION, R/O. H.NO. 1/57, NANDIMANDALAM
VILLAGE, PENDLIMARRI MANDAL, Y.S.R DISTRICT.

...PETITIONER/ACCUSED

AND

THE STATE OF ANDHRA PRADESH, Through Station House Officer,
Pendlimarri Police Station, Y.S.R District., rep by its Public Prosecutor,
High Court of Andhra Pradesh.

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

PAPUDIPPU SASHIDAR REDDY

Counsel for the Respondent/complainant:

PUBLIC PROSECUTOR

The Court made the following:

ORDER:

The Criminal Petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS') by the Petitioner/Accused No.1 for granting of pre-arrest bail in connection with Crime No.40 of 2025 in Pendlimarri Police Station, Kadapa District, registered for the alleged offence punishable under Sections 308(5) and 351(3) read with 3(5) of the Bharatiya Nyaya Sanhita (for brevity of 'the BNS').

2. The learned counsel for the petitioner submits that the petitioner has not committed any offence. He is innocent and a law-abiding citizen. He has been falsely implicated in this case. He is the sole breadwinner of his family. He has got fixed abode. If any condition is imposed for granting pre-arrest bail, the petitioner would scrupulously follow such condition. The de-facto complainant had taken a loan from a company by the name 5-Star Finance Corporation, and as he has not repaid the said amount, the representatives of the company came and locked the premises. The petitioner is not in possession of the property. The petitioner has nothing to do with the allegations made by the de-facto complainant, and therefore, it is urged to grant pre-arrest bail to the petitioner.

3. *Per contra*, Ms.P.Akhila Naidu, the learned Assistant Public Prosecutor, submits that the accusation against the petitioner is well-founded. The petitioner is not entitled to the grant of pre-arrest bail, which is a discretionary

remedy. The petitioner has not approached the Court with clean hands. He has taken the law into his own hands. The investigation is at crucial stage and it is urged to dismiss the petition.

4. Heard the learned counsel for the petitioner and the learned Assistant Public Prosecutor. Perused the record.

5. The learned counsel for the Petitioner relied on the decision of this Court in Crl.P.No.9946 of 2025 *vide* order dated 08.10.2025 in the proposition that allegations of extortion do not attract when there is no specific overt act that the victim was put in fear of injury intentionally and got delivered the property or valuable security. The offence under Section 351(3) of 'the BNS' is punishable with imprisonment for a term which may extend to seven years. Therefore, it is requested to direct the Investigating Officer to comply with 35(3) of 'the BNS'.

6. The Hon'ble Apex Court in **Dhananjay Alias Dhananjay Kumar Singh v. State of Bihar**¹ wherein at para Nos.9, 10, 11, and 12 it was held as under:

"9. It is in the aforementioned premise the allegations that Gautam Dubey and the appellant slapped the first informant and took out Rs. 1580 from his upper pocket must be viewed.

10. No allegation was made that the money was paid by the informant having been put fear of injury or putting him in such fear by the appellant was intentional.

11. The first informant, admittedly, has also not delivered any property or valuable security to the appellant.

12. A distinction between theft and extortion is well known. Whereas offence of extortion is carried out by overpowering the will of the owner, in commission of an offence of theft the offender's intention is always to take without that person's consent."

¹(2007) 14 SCC 768

7. In **IsaacIsanga Musumba v. State of Maharashtra**², at para No.3 it was held as under:

"3. We have read the FIR which has been annexed to the writ petition as Annexure P-7 and we find therefrom that the complainants have alleged that the accused persons have shown copies of international warrants issued against the complainants by the Ugandan Court and letters written by Uganda Ministry of Justice and Constitutional Affairs and the accused have threatened to extort 20 million dollars (equivalent to Rs 110 crores). In the complaint, there is no mention whatsoever that pursuant to the demands made by the accused, any amount was delivered to the accused by the complainants. If that be so, we fail to see as to how an offence of extortion as defined in Section 383 IPC is made out. Section 383 IPC states that:

"383. Extortion.—Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits 'extortion'."

Hence, unless property is delivered to the accused person pursuant to the threat, no offence of extortion is made out and an FIR for the offence under Section 384 could not have been registered by the police."

8. Further in **Hemant Dhirajlal Banker v. State of Maharashtra**³ at para No. 15 and 18 it was held as under:

"15. This definition indicates following ingredients of the offence of extortion, which must be present for constituting it.

(1) Intentionally putting any person in fear of injury to that person or any other person;

(ii) Inducing of the person so put in fear dishonestly,

(iii) Delivery to any person any property or valuable security by the person put in fear and subjected to dishonest inducement.

If any of these ingredients is absent, the offence of extortion would not be complete, as held in the case of Dhananjay alias Dhananjay Kumar Singh Vs. State of Bihar and Anr.1. In an earlier case of R.S. Nayak Vs. A.R. Antulay and Anr, similar view was taken by the Apex Court."

18. Of course, in the case of Bhagwan Gajanan Phandat Vs. State of Maharashtra, along with connected matter, a Coordinate Bench of this court, of which one of us was apart, has, while dealing with the offence punishable under Section 387 of the IPC, observed that the section does not say that the threatened person has delivered any property in pursuance to the threat. This observation, in our considered view, cannot be understood as laying down an authoritative proposition of law that even without any delivery of property, offence of extortion can be

²(2014) 15 SCC 357

³CrI.A.No.488 of 2020 dated 27.06.2023

constituted, the reason being that the statement does not make it clear as to whether or not delivery of any property following the threat given is an essential part of the offence of Section 387. The statement is only about the threatened person delivering any property. Secondly, it has been made in ignorance of the law laid down by the Apex Court in the aforesaid cases of Isaac Isanga Musumba, Dhananjay alias Dhananjay Kumar Singh and R.S. Nayak (Supra). So, it is clear now that not only putting a person under fear of any injury and dishonestly inducing the person so put in fear to deliver the property but also actual delivery of property are a sine-qua-non of the offence of extortion, as defined under Section 383 IPC. With this clarity in mind, let us now proceed to consider the allegations made against both the applicants”

9. Be that as it may, as seen from the record, the allegation against the Petitioner/Accused No.1 is that he had high-handedly locked the doors of the house of the de-facto complainant on the ground that the wife of the de-facto complainant and his son had taken a loan from him but failed to repay it. Therefore, he allegedly took possession of the house and stated that he would not give possession of the house unless the de-facto complainant repays the debt. The learned counsel for the petitioner filed certain photocopies of documents stating that the de-facto complainant had borrowed some amounts from 5-Star Finance Corporation and, as the de-facto complainant failed to repay them, so they took possession of the property.

10. However, this Court directed the Sub-Divisional Police Officer, Kadapa Sub-Division, to submit a brief report as to who is in possession of the house of the de-facto complainant. Pursuant to the direction of this Court, the Sub-Divisional Police Officer, Kadapa Sub-Division, submitted a brief report stating that the petitioner/Accused No.1 was in possession of the disputed property at the time of the alleged offence, constraining the de-facto complainant and his family members to leave it. He also filed the statement of

the Village Revenue Officer who also confirmed the same. The investigation is at a crucial stage. The accusation is well-founded, and there are specific overt acts attributed to the petitioner.

11. The grant of pre-arrest bail is neither a license for the commission of offences nor a shield or protection for the persons who have allegedly committed offences, and against whom specific overt acts are attributed, as per the judgments of the Hon'ble Supreme Court in **Gurbaksh Singh Sibbia v. State of Punjab**⁴ and **Sushila Aggarwal v. State (NCT of Delhi)**.⁵

12. In view of above facts and circumstances of the case, nature and gravity of the specific allegations levelled against the Petitioner, this Court is not inclined to consider the request of Petitioner for grant of pre-arrest bail as the Petitioner is disentitled for the relief.

13. In the result, the Criminal Petition is dismissed.

Dr.Y. LAKSHMANA RAO, J.

Date:12.12.2025
PRA

⁴ (1980) 2 SCC 565

⁵ (2020) 5 SCC 1

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 10172 of 2025

Date: 12.12.2025
PRA