



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

[3521]

WEDNESDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 10219/2025

Between:

G M Abhishek

...PETITIONER/ACCUSED

AND

The State Of Andhra Pradesh

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1.D.DEVENDRA NAIK

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

The Court made the following:

ORDER:

Criminal Petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS') by the Petitioner/Accused No.4, for granting of pre-arrest bail in connection with Crime No.54 of 2025 of Kothacheruvu Police Station, Sri Sathya Sai District registered for the alleged offence punishable under Section 318(4) of the BharatiyaNyay Sanhitha, 2023 (for brevity 'the BNS').

CASE OF THE PROSECUTION:

2. The case of the prosecution is that The case of the prosecution is that the de-facto complainant, proprietor of Greeshma Enterprises dealing in sugarcane, maize, and other commodities, was induced by Accused No.1, M. Suresh @ Dalmill Suri, to purchase sugar at a price lower than the market rate. Believing the representation, the complainant visited Sri Venkateswara Dal Mill, Kothacheruvu, and transferred a total amount of Rs.10,64,000/- through PhonePe and bank transfer. Despite repeated assurances, the accused neither supplied the goods nor refunded the amount and gave evasive replies. Based on the complaint, Crime No.54 of 2025 was registered at Kothacheruvu Urban Police Station, Sri Sathya Sai District, for the offence punishable under Section 318(4) of 'the BNS'.

CONTENTIONS OF THE COUNSEL FOR THE PETITIONER:

3. Sri D. Vevendra Naik, learned counsel for the Petitioner respectfully submits that the Petitioner has been falsely implicated in the present case and has not committed any offence as alleged. The Petitioner is the sole earning member of his family, and arrest would cause irreparable hardship to dependents. The Petitioner is willing to abide by any condition that this Court may deem fit and proper for the grant of anticipatory bail.

4. It is further submitted that there is no recovery attributable to the Petitioner and custodial interrogation is not warranted in the facts and circumstances of the case. The Petitioner has cooperated with the investigation and there is no likelihood of his absconding or tampering with the

prosecution evidence. Therefore, it is prayed that this Court may be pleased to grant pre-arrest bail to the Petitioner/Accused No.2 in the interest of justice.

ARGUMENTS OF THE ASSISTANT PUBLIC PROSECUTOR:

5. Per contra, Mr. Neelotphal Ganji, learned Assistant Public Prosecutor vehemently opposed anticipatory bail, contending that without approaching the learned Sessions Judge of first instance, the Petitioner filed this Petition directly before this Court, such procedure is contrary to the order of the Hon'ble Apex Court in ***Mohammed Rasal.C v. State of Kerala***¹ and ***Jagdeo Prasad v. State of Bihar and others***².

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

POINT FOR CONSIDERATION:

7. 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?”

ANALYSIS:

8. Without going into the merits of the matter, it is brought to the notice of this Court by the learned Assistant Public Prosecutor that this case has been filed under Section 482 of 'the BNSS', seeking for grant of pre-arrest bail without approaching the learned Sessions Judge concerned at first instance. The Hon'ble Apex Court in ***Mohammed Rasal.C supra*** wherein at paragraph Nos.7, 8 and 9 it was held as follows:-

¹Special Leave to Appeal (Crl) Nos. 6588 of 2025, dated 08.09.2025.

² Crl. Appeal @ SLP (Crl) No. 17805 of 2024 etc.

"7. The Sessions Judge exercises powers under Section 438 Cr.P.C in relation to all cases registered with the police stations in the particular District. This area-wise distribution of work would make it much more convenient and facilitate expeditious disposal, if the application for pre-arrest bail is first filed before the Sessions Court which would have a direct and first-hand assistance of the concerned Public Prosecutor appointed for that particular District. The Sessions Court would also have an immediate access to the Case Diary thereby facilitating a better appreciation of facts of the case.

8. We further feel that if the practice of entertaining the applications for pre-arrest bail directly in the High Court is encouraged, and the parties concerned are not relegated to first approach the Sessions Court concerned, the High Court would be flooded with a spate of pre-arrest bail applications thereby creating a chaotic situation. We say so, because if the parties are required to approach the Sessions Court concerned for seeking remedy of pre-arrest bail, there is a strong probability that significant number of applications would be allowed at that level only thereby acting as a filtration process before the process reaches the High Court.

9. It is trite that in most of the States, there is a consistent practice requiring the litigant concerned to first approach the Sessions Court for seeking relief of pre-arrest bail and only in the event of denial of such relief, the litigant would be granted access to approach the High Court for seeking such relief. This is, of course, subject to just exceptions and the High Court, for reasons to be recorded, may entertain an application for pre-arrest bail directly in special/ extraordinary circumstances."

9. The Hon'ble Apex Court in **Jagdeo Prasad v. State of Bihar and others³**, supra wherein at para No. 6 as under:

"6. However, before parting, we do wish to express our sincere concern with the haste at which the High Court has dealt with this matter. While the scheme of Criminal Procedure Code, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) provides concurrent jurisdiction to the High Court and Sessions Court for entertaining applications for anticipatory bail, this Court has time and again observed that High Court should always encourage exhausting an alternative/concurrent remedy before directly interfering itself. This approach balances the interests of all the stakeholders, first by giving the aggrieved party a round of challenge before the High Court. Second, this approach provides the High Court an opportunity to assess the judicial perspective so applied by the Sessions Court, in concurrent jurisdiction, instead of independently applying its mind from the first go. Further, the High Court fails to record any reason for directly granting anticipatory bail without impleading the appellant-complainant as a party."

³ Crl. Appeal @ SLP (Crl) No. 17805 of 2024 etc.

10. Albeit this Court has got concurrent jurisdiction under Section 482 of 'the BNSS', such discretionary relief would only be granted, when the Petitioners establish a special case or extra ordinary circumstance. As seen from the averments, the Petitioners neither established a special case nor extra-ordinary circumstance. This Court granted interim orders on an earlier occasion, and the same have been extended from time to time till date. However, in view of the order passed in ***Mohammed Rasal.C*** and ***Jagdeo Prasad supra***, this Court is not inclined to exercise its discretionary power to grant pre-arrest bail to the petitioners, as they have not approached the learned Sessions Judge concerned at first instance.

CONCLUSION:

11. In view of the above facts and circumstances of the case, this Criminal Petition is disposed of, granting liberty to the Petitioner/Accused to approach the learned Sessions Judge concerned and move appropriate application for grant of pre-arrest bail within a period of one (01) week from the date of receipt of the copy of this order. Until such time, the respondent shall not take any coercive steps against the Petitioner. The Petitioner shall cooperate with the investigating officer. The investigating officer may proceed with further investigation. It is made clear that if the petitioner do not approach the learned Sessions Judge as mentioned above, the Investigating Officer is at liberty to proceed in accordance with law.

12. Any observations made in this order shall not hinder the learned Sessions Judge concerned from independently applying his mind and passing

appropriate orders on merits in accordance with law, after giving due and sufficient opportunity to both sides.

13. With the above direction, these four Criminal Petitions are disposed of.

DR. Y. LAKSHMANA RAO, J

Date: 08.10.2025

KMS