

APHC010352112024



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

[3365]

THURSDAY, THE TWENTIETH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE JUSTICE DR V R K KRUPA SAGAR

CRIMINAL PETITION NO: 5671/2024

Between:

Mr. Vallabhneni Vamsi Mohan **...PETITIONER/ACCUSED**

AND

The State Of A P **...RESPONDENT/COMPLAINANT**

Counsel for the Petitioner/accused:

1.V.Devi Satya Sri

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

SUBMITTED FOR APPROVAL:

THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR

- | | |
|--|--------|
| 1. Whether Reporters of Local Newspapers
may be allowed to see the Order? | Yes/No |
| 2. Whether the copy of Order may be
marked to Law Reporters/Journals? | Yes/No |
| 3. Whether His Lordship wish to
see the fair copy of the Order? | Yes/No |

Dr. V.R.K.KRUPA SAGAR, J

*** HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR**

+ CRIMINAL PETITION NO: 5671/2024

% 20.02.2025

Between:

Mr. Vallabhneni Vamsi Mohan

...PETITIONER

AND

The State Of A P

... RESPONDENT

! Counsel for Petitioner : Ms. V.Devi Satya Sri

**^ Counsel for Respondent : Sri Siddarth Luthra,
the learned Senior Counsel &
Sri M.Lakshmi Narayana,
the learned Public Prosecutor &
Sri K.Sandeep, the learned
Assistant Public Prosecutor**

< Gist:

> Head Note:

? Cases referred:

- 1. (2024) 3 SCC 224**
- 2. 2024 LiveLaw (SC) 601**
- 3. ILR 2021 KAR 4783**
- 4. 2024 SCC OnLine AP 5322**
- 5. 2024 APHC 40234**
- 6. 2022 LiveLaw (Ker) 472**
- 7. 2021 SCC OnLine Kar 15742**
- 8. 2018 SCC OnLine ALL 2087**
- 9. 2024 Supreme(Online)(MP) 9794**
- 10. 2023 LiveLaw (SC) 660/2023 INSC 736**

The Court made the following:

THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR**CRIMINAL PETITION No.5671 of 2024****ORDER:**

This Criminal Petition, under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) (Section 438 of Code of Criminal Procedure), is filed by the petitioner/A.71 seeking anticipatory bail in connection with Crime No.137 of 2023 of Gannavaram Urban Police Station, Krishna District, registered for the offences punishable under Sections 143, 147, 148, 435 and 506 read with 149 I.P.C. and Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Thereafter, the police, on the strength of the material collected, added Sections 436, 450, 452 and 120B of I.P.C and Sections 3(2)(v) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Heard arguments of Ms. V.Devi Satya Sri, the learned counsel for petitioner and Sri Siddarth Luthra, the learned Senior Counsel appearing online and Sri M.Lakshmi Narayana, the learned Public Prosecutor and Sri K.Sandeep, the learned Assistant Public Prosecutor for respondent-State.

3. As against the above anticipatory bail petition, a detailed counter was filed by the respondent-State.

4. This criminal petition pertains to Crime No.137 of 2023 of Gannavaram Urban Police Station. By this petition the accused/A.71 prays for pre-arrest bail. The crime incident allegedly occurred on 20.02.2023. Upon a written information dated 22.02.2023 F.I.R.No.137 of 2023 was registered. The scene of offence was Telugu Desam Party office, Gannavaram. Sri Mudunuri Satyavardhan belonging to Madiga caste, which is a scheduled caste, was computer operator working in Telugu Desam Party office and living in the said office.

5. During the time when this crime incident allegedly occurred the party in power was YSR Congress Party. Investigation commenced and went on for some time. Thereafter there were general elections and the then opposition party/Telugu Desam Party got the mandate and came into power. Thereafter investigation continued further. The allegations and counter allegations in this case disclosed the rift between both the political parties. Petitioners contend that this is a case falsely alleged against him out of political vendetta. According to the State, for

political reasons there was inadequate investigation soon after commission of the offence. By the time this crime incident occurred the petitioner/Sri Vallabhaneni Vamsi Mohan was Member of Legislative Assembly for Gannavaram Assembly Constituency.

6. The version of the prosecution is that on 18.02.2023 during afternoon hours a press meet was held by Sri Vallabhaneni Vamsi Mohan wherein he allegedly made certain insulting remarks as against Sri N.Chandrababu Naidu, Sri Nara Lokesh and their family members and used indecent language. In response to it, certain leaders of Telugu Desam Party conducted a press meeting on 19.02.2023 in the morning hours and condemned the statements made by the opponent political party people.

7. In the above backdrop of facts, the crime incident allegedly occurred. It is stated that on 20.02.2023 at about 5:00 P.M. Sri Vallabhaneni Vamsi Mohan went to Telugu Desam Party office and on noticing followers of Telugu Desam Party he caused enquiries about Mr. Pattabhi of Telugu Desam Party and warned

them that they would finish Telugu Desam Party and left the place.

8. In the next 30 minutes at about 5:30 P.M. about 100 persons belonging to YSR Congress Party came to Telugu Desam Party office wielding sticks, stones, petrol bottles and various other arms and while hailing Sri Vallabhaneni Vamsi Mohan they attacked the party office. They threw stones, entered the party office and destroyed the furniture, broke two computers and two televisions and caused tremendous panic among everyone available there. In the first information report the *de facto* complainant was able to mention the names of 44 accused. It also made a mention about four named accused who came upon him and abused him by his caste name. The further case of the prosecution is that these hooligans caused chaos and some of them using their sticks and cricket playing wickets seriously damaged three cars/AP 39 K 1999, AP 16 DJ 9499 and TS 10 EC 4099. It is also stated that one Mr. Rabbani poured petrol on the car bearing No.AP 16 DA 5555 and lit fire to it. The version of the *de facto* complainant is that there were police people at the Telugu Desam Party office and they remained mute spectators. During the investigation it was found that some of the accused

made attempts to burn the party office as walls in one room were found with charred marks.

9. Investigation has been in progress. Some of the accused were arrested and were remanded to judicial custody. According to prosecution, by the time of this petition at least 44 accused were absconding. After gaining contact with about 28 accused they were questioned about their mobile phones and only seven out of them surrendered their mobile phones and 20 of the accused furnished false information about the instruments they used and their mobile numbers.

10. During the investigation, CCTV footage was collected. When the crime incident occurred, various people captured it on their mobile phones and all such material was collected. Based on these investigative efforts, allegations are made against the petitioner and other accused by the prosecution stating that they were all involved in this crime incident.

11. The substance of the contentions raised by the petitioner:

- That there was unexplained delay in registration of crime.

The incident occurred on 20.02.2023 and F.I.R. was

registered on 22.02.2023. That around the same time and place certain incidents occurred which resulted in registration of multiple F.I.Rs. and many of which disclosed accusation of criminal acts of followers of Telugu Desam Party as against members of YSR Congress Party members and this case is in a way a counter blast to Crime Nos.132, 133, 134 and 135 of 2023.

- On 25-11-2022 Mr.Pattabhi Kommareddy made defamatory allegations against the petitioner. On 01-12-2022 the petitioner got a Defamation Notice issued to Mr.Pattabhi Kommareddy. On 18-02-2023 the petitioner having filed a criminal defamation complaint in Court, gave a sworn statement in Court before the learned XII Metropolitan Magistrate, at Gannavaram. The said criminal case for defamation was taken on file as C.C.No.97 of 2024 on the file of the Court of XII Metropolitan Magistrate, Gannavaram. The petitioner also filed a civil suit for defamation against Mr. Pattabhi Kommareddy which is taken on file as O.S.No.05 of 2023 on the file of the Court of Principal Junior Civil Judge, Gannavaram. On 18-02-2023 the petitioner held a Press Conference giving

details of the defamation case filed against Mr.Pattabhi Kommareddy.

- F.I.R. does not contain any allegations of overt acts against the petitioner.
- After a change in political party in power witnesses were planted and false evidence is created.
- Initially the investigation officer served Section 41A Cr.P.C. notice. That was complied with. However, after the change of political Government police have unlawfully brought additional penal provisions to nullify the rightful reliefs available to the petitioner.

12. The following significant aspects are required to be noticed:

F.I.R.No.137 of 2023 was registered for the offences punishable under Sections 143, 147, 148, 435 and 506 read with 149 I.P.C. and Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act, 1989'). Since caste atrocity was one of the offences alleged, on the instructions of Superintendent of Police, Krishna, the Sub-Divisional Police Officer, Gannavaram took up

investigation. After recording the statements of about six witnesses, the investigation officer found that the provisions of the Act, 1989 were not applicable. Therefore, he applied to the Superintendent of Police to accord permission to delete those provisions. By proceedings dated 04.07.2023 the Superintendent of Police granted such permission. Investigation went further and scores of witnesses were examined. Thereafter by way of an alteration memo dated 07.08.2024 the investigation agency got added Section 3(2)(v) and Section 3(2)(va) of the Act, 1989. It also added Sections 436, 450 and 452 I.P.C.

13. Since in the present crime incident not only offences under the Indian Penal Code but also offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are alleged, the forceful argument raised by the State is that anticipatory bail petition is not maintainable by virtue of Sections 18 and 18A of the Act, 1989. The further argument is that the High Court does not now possess concurrent original jurisdiction for bails as well as anticipatory bails and it has only appellate jurisdiction by virtue of Section 14A of the Act, 1989 and therefore, this petition is to be dismissed. In such circumstances, this Court requested the learned counsels on both sides to

address arguments in that regard since the questions concerning jurisdictional bar has arisen.

14. Valiant submissions are made by the learned counsel for petitioner wherein references are made to Sections 18 and 18A of the Act, 1989 and precedent is cited to show that if there is no *prima facie* case attracting the provisions of the Act, 1989 is made out, anticipatory bail could be considered. It is also argued that this Court in this petition, during pendency of hearing, granted interim protection and therefore, the same may be made absolute since the petitioner has not violated anything thereafter. The strenuous argument put forth is that this Court has to consider the merits of the matter and dispose of the same.

15. Before proceeding further it requires a mention here. That in the present Crime No.137 of 2023 of Gannavaram Urban Police Station, Krishna District various accused had filed similar anticipatory bail petitions in Criminal Petition Nos.5197, 4896, 5230, 5256, 5367, 5475, 5487, 5503, 5550, 5553, 5585, 5652, 5718, 5724, 5752, 5839, 5920 and 9083 of 2024. Those petitions and the present petition were taken up for hearing and substantial arguments were submitted and thereafter while the other

petitioners prayed for disposal of their petitions only the present petitioner, citing some inconvenience to the counsel wanted another date for making further submissions. Acceding to the request the present petition was adjourned to a different date. The other petitions were disposed of by this Bench by a common order dated 06.01.2025. In that order this Court fully considered the purport of Section 14A of the Act, 1989 and dismissed all those petitions.

16. It is thereafter the petitioner filed I.A.No.1 of 2025. The prayer in which reads as below:

“In the given circumstances stated above, it just and necessary in the interests of Justice, Judicial Discipline and Propriety, and in view of the fact that this very same High Court of Andhra Pradesh had in a plethora of cases granted anticipatory bail where offences under SC ST (POA) Act were involved, it is in the fitness of things that this Hon'ble Court may be pleased to refer to a Larger Bench of this Hon'ble Court framing the question whether Sec.14A of the SC ST (POA) Act 1989 is a bar to the maintainability of an application for anticipatory bail under Sec.438 Cr.P.C. or Sec.482 BNSS and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

17. In this application two aspects are raised. That this very Bench in Criminal Petition No.4487 of 2024 in Crime No.52 of 2024 of Disha Urban Police Station of Krishna District and in Criminal Petition No.3807 of 2024 in Crime No.67 of 2024 of Chapadu Police Station of YSR Kadapa District granted anticipatory bail in July, 2024. The other Benches of this Court granted anticipatory bail althroughout in the following matters:

Sl.No.	Criminal Petition No.	Order dated
1.	5777 of 2024	13.12.2024
2.	6714 of 2024	18.12.2024
3.	9033 of 2024	31.12.2024
4.	836 of 2021	18.02.2021
5.	3276 of 2023	11.05.2023
6.	5608 of 2022	03.08.2022

18. On behalf of the petitioner, it is contended that judicial discipline envisages that a coordinate Bench follow the decision of an earlier coordinate Bench. If a coordinate Bench does not agree with the principles of law enunciated by another Bench, the matter may be referred only to a larger Bench. For this proposition the learned counsel for the petitioner cited ***Mary Pushpam v. Telvi Curusumary***¹.

19. In contest, the State filed a detailed counter stating that in the other matters before other Benches Section 14A of the Act, 1989 was not dealt with. Therefore, they cannot be said to conflict with the decisions rendered by this Bench of the Court. This Bench has been consistent in its rulings from the time occasion arose to this Bench to consider the true purport of Section 14A of the Act, 1989. Therefore, the application for reference is misconceived.

20. On behalf of the petitioner, a reply counter was also filed.

21. For petitioner, I.A.No.2 of 2025 is filed. A sworn affidavit of accused No.71/the petitioner is filed. It narrated the great services rendered by the petitioner to the society and the

¹ (2024) 3 SCC 224

vendetta of the political opponents and the prosecutions non-insistence before other Benches about Section 14A of the Act, 1989. The clear tenor of the affidavit and the averments in it are that prosecution, despite change of roster for bail matters, put its efforts to have the matter listed before this Bench.

22. The points that fall for consideration are:

- 1. Whether the jurisdiction of the High Court under Sections 438 and 439 of the Code of Criminal Procedure, 1973 is taken away by Sub-Section (2) of Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989?**
- 2. Whether there are conflicting judgments of coordinate Benches of this Court requiring any reference to a larger Bench on the above referred jurisdictional issue?**

POINT No.1:

23. Offences under the Act, 1989 can be taken cognizance of and tried and be disposed of by Special Courts and Exclusive

Special Courts as provided in Section 14 of the Act, 1989. Those Courts since now empowered to take cognizance hold power to take remand of the accused and consider applications for bails. There is no provision in the Act, 1989 adverting to the aspects that are to be considered by those Courts when they entertain bail petitions. Therefore, those Courts draw their powers from the Code of Criminal Procedure. Chapter XXXIII of the Code of Criminal Procedure is headed as provisions as to bail and bonds. It consists of Sections 436 to 450. They refer to bail in cases of bailable offences and bail in cases of non-bailable offences. Section 438 Cr.P.C. to the extent that is required alone is extracted here:

“438. Direction for grant of bail to person apprehending arrest:

(1) Where any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-

(i) the nature and gravity of the accusation;

- (ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- (iii) the possibility of the applicant to flee from justice; and
- (iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail:

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-Section or has rejected the application for grant of anticipatory bail, it shall be open to an officer incharge of a police station to arrest, without warrant, the applicant on the basis of the accusation apprehended in such application.”

24. Thus, as per the above provision, those accused who anticipate their arrest may seek pre-arrest bail and they could move such applications either before this Court or before the Court of Sessions. It is in the light of such a provision the petitioner has straightaway moved this Court for his prayer for pre-arrest bail.

25. The first submission of Sri M.Lakshmi Narayana, the learned Public Prosecutor for the State is that in cases of caste atrocities anticipatory bails cannot be maintained by virtue of

Sections 18 and 18A of the Act, 1989. Those provisions read as below:

“18. Section 438 of the Code not to apply to persons committing an offence under the Act.— Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

18A. No enquiry or approval required.—(1) For the purposes of this Act,— (a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or

(b) the investigating officer shall not require approval for the arrest, if necessary, of any person,

against whom an accusation of having committed an offence under this Act has been made and no procedure other than that provided under this Act or the Code shall apply.

(2) The provisions of section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court.”

26. The strong response from the learned counsel for the petitioner is that the bar under Section 18 of the Act, 1989 would apply only to those cases where *prima facie* materials exist pointing towards the commission of an offence under the Act,

1989. If the necessary ingredients to constitute the offence under the Act, 1989 are not disclosed on the *prima facie* reading of the allegations levelled in the complaint or F.I.R. then in such circumstances, the bar of Section 18 of the Act, 1989 would not apply and the Courts would not be absolutely precluded from granting pre-arrest bail to the accused persons. In justification of this argument, strength is taken from the ruling of the Hon'ble Supreme Court of India in ***Shajan Skaria v. The State of Kerala***².

27. If one goes by the contentions of the learned counsel for the petitioner this Court is required to consider the merits of the matter so as to find out whether the facts alleged do make out a *prima facie* case disclosing caste atrocity or not. However, according to the State, even such a view cannot be taken by this Court by virtue of the interdict contained in Section 14A of the Act, 1989 and support is taken on the ruling of ***Lokesh v. The State of Karnataka***³. Therefore, it is required to notice what this provision says. The provision reads as below:

² 2024 LiveLaw (SC) 601

³ ILR 2021 KAR 4783

“14A. Appeals:—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

(2) Notwithstanding anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.

(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from: Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days: Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.”

28. As per Sub-Section (2) of Section 14A of the Act, 1989 the petitions for bail are to be considered by the Special Court and in the event of their granting or refusing to grant such bails the

aggrieved can prefer an appeal before this Court. Thus, the concurrent jurisdiction for consideration of anticipatory bails provided in Section 438 Cr.P.C. stood excluded. It is not as though the aggrieved is deprived of all the remedies. After inviting an order on the bail petition from the Special Court the aggrieved is entitled to prefer an appeal before this Court in terms of Section 14A of the Act, 1989. In the case at hand, the petitioner has moved bail petition straightaway before this Court. At any rate, what is before this Court is not an appeal against an order passed by the Special Court with reference to bails. It shall be stated that on the same subject matter High Court could not be said to possess concurrent original jurisdiction as well as appellate jurisdiction. If one is to state that a bail is different from anticipatory bail the result is that in anticipatory bails this Court holds original jurisdiction and in regular bails it holds only appellate jurisdiction. Assuming that in a case a petition for anticipatory bail being moved before the Special Court resulted in dismissal, then according to the logic applied by the petitioner the petitioner would have to move only another bail petition before this Court and not an appeal. Such logic is in violation of what is clearly provided in Section 14A of the Act, 1989. It is to be seen

that the question of bail presupposes detention or custody of the person. In a case where a person is arrested he prays for a regular bail. In cases of anticipatory bail in the event of granting the relief, it has no effect unless and until the accused is arrested. In other words, the order of anticipatory bail comes into effect only after a person is arrested and not otherwise. In contrast to regular bail, in cases of anticipatory bail the order is obtained in advance. In regular bails it was obtained after arrest. The timing at which a prayer is made, and an order is granted, have no relevance when it comes to operation of those orders as in both the cases they come into operation only when a person is arrested and thus in custody. In such view of the matter the word bail used in Section 14A of the Act, 1989 encompasses regular bail as well as anticipatory bail. Therefore, it must be stated that an application for bail or anticipatory bail can be filed only before the Special Court or the Exclusive Special Court, as the case may be, and not before the High Court. An order granting or refusing bail or anticipatory bail by the Special Court or Exclusive Special Court can be assailed before this Court invoking its appellate jurisdiction provided in Section 14A of the Act, 1989. This Court had deliberated these aspects on earlier occasions when similar

questions were raised and it reached to the same conclusions and reference can be made to the following:

1. ***Nakka Nagireddy v. State of A.P.***⁴
2. ***Deepak Kumar Tala v. The State of Andhra Pradesh***⁵.

29. Similar conclusions were reached at by other High Courts. Reference can be made to the following:

1. ***K.M.Basheer v. Rajani K.T.***⁶
2. ***Lokesh v. State of Karnataka***⁷
3. ***In re Provision of Section 14A of SC/ST (Prevention of Atrocities) Amendment Act, 2015 v. Nil***⁸
4. ***Atul Rajput v. The State of Madhya Pradesh***⁹

30. One more contention addressed at the bar is that this Constitutional Court holds immense power and could exercise inherent jurisdiction and consider granting the prayer. In this regard, a brief reference to what was stated by their Lordships in

⁴ 2024 SCC OnLine AP 5322 Order dated 11.11.2024

⁵ 2024 APHC 40234 Order dated 22.10.2024

⁶ 2022 LiveLaw(Ker) 472

⁷ 2021 SCC OnLine Kar 15742

⁸ 2018 SCC OnLine ALL 2087

Shajan Skaria's case¹⁰ would be sufficient here. At paragraph No.49 their Lordships stated that if the accused puts forward the case of malicious prosecution on account of political or private vendetta such aspects can be considered only by the High Court in exercise of its inherent powers under Section 482 of the Code or in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. However, powers under Section 438 of the Code of Criminal Procedure cannot be exercised once the contents of the complaint/F.I.R. disclose a *prima facie* case. In fact, in that case Section 14A of the Act, 1989 did not come up for consideration since the anticipatory bail petition was first moved before the trial Court and as against those orders appeal was preferred before the High Court.

31. In summation, where the complaint alleges commission of an offence punishable under the Act, 1989 the Special Court or the Exclusive Special Court can alone exercise the jurisdiction, in the first instance, to hear and dispose of applications for bail or anticipatory bail. It is not open to the High Court to exercise the original or concurrent jurisdiction. In view of Sub-Section (2) of

⁹ 2024 Supreme(Online)(MP) 9794

¹⁰ Supra 2

Section 14A of the Act, 1989 the High Court holds only appellate Jurisdiction. Therefore, it is impermissible for this Court to look into the substance of the allegations of crime made against the accused. The jurisdictional bar is complete. In this view of the matter the earnest submission of the learned counsel for petitioner to decide on the merits of the case cannot be acceded to.

32. This Court refrains from delving into the facts and the principles of law governing anticipatory bails since any such discussion may unnecessarily prejudice the contentions of both sides when appropriate applications are filed before appropriate Courts for the reliefs or when the matters come up before this Court in appeal. Hence, this point is answered accordingly.

POINT No.2:

33. The present contention pertains to the need for consistent rulings. The point is proposed stating that this Court in some of the earlier orders considered prayers for bail where offences were raised under various penal provisions of the Act, 1989. The further argument is that the other Benches of this Court have been considering bail petitions where offences alleged are under

various penal provisions of the Act, 1989. The upshot of the argument is the prayer for referring the matter to a larger Bench to settle the inconsistent rulings of this Court.

34. It was in October and November 2024 only this Court had the occasion to consider Section 14A of the Act, 1989 and accordingly decided that this Court does not any more hold original concurrent jurisdiction and it holds only appellate jurisdiction vide ***Nakka Nagireddy's*** case¹¹ and ***Deepak Kumar Tala's*** case¹². Earlier to these two rulings such questions did not fall for consideration before this Bench and therefore they were disposed of on mere factual merits.

35. Coming to the bail petitions disposed of by other learned Judges of this Court which were mentioned in the earlier paragraphs it is to be recorded here that on a perusal of those orders it is seen that those petitions were disposed of only based on facts available on record and the jurisdictional aspect in terms of Section 14A of the Act, 1989 was not considered. A decision cannot be relied upon in support of a proposition that it did not decide. A reference to the principles enunciated by the Hon'ble

¹¹ supra 4

Supreme Court of India in ***Secunderabad Club v. CIT***¹³ is relevant in this regard:

“19. What is binding, therefore, is the principle underlying a decision which must be discerned in the context of the question(s) involved in that case from which the decision takes its colour. In a subsequent case, a decision cannot be relied upon in support of a proposition that it did not decide. Therefore, the context or the question, while considering which, a judgment has been rendered assumes significance.

21. In the context of understanding a judgment, it is well settled that the words used in a judgment are not to be interpreted as those of a statute. This is because the words used in a judgment should be rendered and understood contextually and are not intended to be taken literally. Further, a decision is not an authority for what can be read into it by implication or by assigning an assumed intention of the judges and inferring from it a proposition of law which the judges have not specifically or expressly laid down in the pronouncement. In other words, the decision is an authority for what is specifically decides and not what can logically be deduced therefrom.”

36. In that view of the matter there is no occasion to accede to the prayer for reference to a larger Bench.

¹² supra 5

¹³ 2023 LiveLaw (SC) 660/2023 INSC 736

37. This Court in the present Crime No.137 of 2023 disposed of batch of matters by a common order dated 06.01.2025 holding that this Court cannot have original jurisdiction as well as appellate jurisdiction at one and the same time and dismissed those petitions. Learned counsel for petitioner placed the following two orders of the Hon'ble Supreme Court of India:

1. Special Leave to Appeal (Crl.) No.770/2025 as against the order dated 06.01.2025 of this Court in Criminal Petition No.5197/2024. The order dated 20.01.2025 of their Lordships reads as below:

“Issue notice, returnable in four weeks.

In addition to the usual mode, liberty is granted to the petitioner to serve notice through the Standing Counsel for the respondent/State.

By way of ad interim order and in the event of arrest, the petitioner be released on bail in connection with FIR No.137 of 2023 dated 22nd February, 2023 registered at Police Station Gannavaram UPS, District Krishna, Andhra Pradesh, subject to him executing personal bonds for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only), with one or more sureties in the like amount.

Considering the fact that the petitioner himself belongs to a Scheduled Caste category, the above order has been passed.

However, the Petitioner is directed to cooperate with the investigation and report to the Investigating Officer as and when directed to do so.”

2. Special Leave to Appeal (Crl.) No.1497-1511/2025 as against the order dated 06.01.2025 in the remaining criminal petitions their Lordships were pleased to pass an order on 31.01.2025 which reads as below:

“We are not inclined to entertain these petitions. Accordingly, the Special Leave Petitions are dismissed.

However, we leave it open for the petitioners to approach the Trial Court/Special Court under Section 438 Cr.P.C. forthwith and for a period of two weeks, no coercive measures be taken against the petitioners.

It is made clear that this interim order is being passed without looking into the merits of the matters. The Trial Court/Special Court would be at liberty to pass an independent order on the applications so filed.

Pending application(s), if any, shall stand disposed of.”

38. In the first referred order of their Lordships it is seen that the order of this Court is available for consideration. In such circumstances this Court is of the considered view that the prayer made by the petitioner herein for referring the matter to a larger Bench does not merit for consideration. Therefore, this point is answered against the petitioner and accordingly, I.A.No.1 of 2025 and I.A.No.2 of 2025 are dismissed.

39. In the result, this Criminal Petition is dismissed. It is made clear that the petitioner is at liberty to move appropriate petition for appropriate relief before the appropriate Court. In the event such petition is filed, the Court where it is filed is to consider the petition on judicial side and dispose of it in accordance with law. Any observations made herein are confined to this petition and they have no bearing on the merits or demerits of the case on either side.

Dr. V.R.K.KRUPA SAGAR, J

Date: 20.02.2025

Note: LR Copy to be marked

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THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR

CRIMINAL PETITION No.5671 of 2024

Date: 20.02.2025

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