

APHC010049912025



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

[3369]

FRIDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL PETITION NO: 1986/2025

Between:

Batha Vamsi

...PETITIONER/ACCUSED

AND

The State Station House Officer

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1.DUVVADA RAMESH

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

The Court made the following ORDER:

1. This Criminal Petition, under Sections 480 and 483 of BNSS, has been filed by the Petitioner/A1, seeking regular bail, in Crime No.287 of 2024 of Mahila Police Station, registered for the offences punishable under Sections 70(1), 77, 351(2), 69 and 75(1) of the Bharatiya Nyaya Sanhita, 2023 (for short, 'BNS') and Section 67-A of Information Technology Act, 2000 (for short, 'I.T.Act').
2. Case of the prosecution, in brief is that on 18.11.2024 at about 22.30 hours, the defacto complainant alleged that A1 developed intimacy with her by

promising love and marriage. On 10.08.2024 at Kambalakonda park, A1 forcefully had sexual intercourse with her, deceitfully reiterating his promise of marriage. On 13.08.2024 at Krishna Gardens, Dabagardens, A1 took her to the rented room of his friend/A4. A1 again forcibly engaged in sexual intercourse with her. Later, friends of A1 i.e, A2 to A4 came there and showed her private videos captured earlier and threatened to share them publicly if she resisted. Under the duress, all four accused sexually exploited her. From that time, the accused continuously harassed and tortured her for sexual favours. Unable to bear the harassment, she attempted to commit suicide.

3. The learned counsel for the petitioner asserts that the petitioner is innocent of all charges, particularly those related to rape or sexual intercourse; the police investigation is complete and the charge sheet is filed. Citing the Hon'ble Supreme Court's principle that "bail is the rule, jail is an exception," learned counsel asserts that the petitioner should not remain in judicial custody. There has been inordinate delay in filing the report to the police.

4. On the other hand, the learned Assistant Public Prosecutor representing the State opposes the grant of bail to the Petitioner and submits that the victim has revealed extremely serious allegations against the Petitioner to the effect that he is the key person who encouraged several persons for having forcible sexual intercourse with the victim and lastly, the delay in lodging the report was on account of the fact that the victim was black mailed by the accused persons that they would make her videos being shared publicly, thereby damaging her reputation.

5. I have heard both sides. Learned counsel on both sides reiterated their submissions, which are on par with the contentions presented in the petition and the report.

6. In **Masroor V. State of U.P.**¹, a Division Bench of the Hon'ble Supreme Court observed as follows:

13. ... Though at the stage of granting bail, an elaborate examination of evidence and detailed reasons touching the merit of the case, which may prejudice the accused, should be avoided, but there is a need to indicate in such order reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence.

7. Before advertng to the merits of the case, this Court would like to clarify that while the filing of a charge sheet is a significant factor in granting bail, it is not the sole criterion to be considered. This must be evaluated in conjunction with the facts and circumstances of the case at hand. In the present matter, although the charge sheet has been filed, the defacto complainant's statements, as recorded, specifically highlight the key role played by the petitioner in the commission of the alleged offence. The petitioner has been assigned the role of facilitating the participation of other persons who are accused in the case. Specifically, these persons are alleged to have coerced the defacto complainant into engaging in physical relations. The petitioner's role, according to the charges, involves actively participating in or enabling the actions of the other accused persons. This could suggest that the petitioner have played a key role in facilitating, encouraging, or possibly even directly pressuring the victim into the alleged situation.

8. The involvement of the petitioner, given the present circumstances, raises significant concerns. Notably, there is no denial of the fact that the petitioner was known to the other accused persons named in the F.I.R., and the charge sheet and in any event, the same is very much matter of trial. At this stage, there is no possible reason or explanation given by the petitioner for his involvement with the other co-accused in the commission of the alleged offence.

¹ (2009) 14 SCC 286

9. The petitioner contends that even as per prosecution, sexual intercourse with the victim was consensual and that there was a deep rooted friendship between them. The prosecution's case is that on 10.08.2024, A.1 took the defacto complainant to Kambalakonda park, where he forcibly had sexual intercourse with her under the pretext of marriage; subsequently, on 13.08.2024, A.1 took the rented room of A.4 at Krishna gardens, and again forcibly participated in sexual intercourse; during the incident of sex of victim and A.1, A.2 had secretly recorded the sexual act; later, A.2 along with A.3 and A.4 used the video to blackmail the defacto complainant and repeatedly called her through voice and whatsapp, threatening to post it on social media unless she consents with their sexual demands; under the fear of threats by A.2 to A.4, victim was forced to have sex with A.2 to A.4 against her will and consent and thereby, they committed the Gang Rape; on 18.11.2024, the victim attempted to commit suicide at 4.00 hours and the victim's father intervened and rescued her; upon learning of her ordeal, the victim's father accompanied the victim to the II Town Police Station, where victim lodged a report.

10. As seen from the record, during the arrest, cell phones were seized from the accused. The investigation officer received the Call Detail Records (CDRs) for the mobile numbers of victim, A.1 to A.4 and the tower locations of the complainant and the accused were traced at the scene of offence and the medical report shows that there is no evidence of recent sexual intercourse, but possibility of sexual assault cannot be ruled out. It is important to note that the complainant/victim and A.1 to A.3 are the students of law college and the victim is presently in her third year of study and A.1 to A.3 are in final year of the LLB course and A.4 is the A.1's friend; A.1 coerced the complainant into engaging in sexual acts with A.2 to A.4; following the incident, the accused persons continued to harass the complainant, repeatedly calling her and demanding sex, threatening to share the compromising video; further A.1 also

pressured her to participate in sexual acts with his friends; fearing the public exposure of the video, the victim remained silent in a state of despair, attempted to take her own life by hanging herself in a bed room.

11. The offence of rape is punishable by rigorous imprisonment for at least ten years, extendable to life imprisonment with a fine. Gang rape carries twenty years' rigorous imprisonment, extendable to life imprisonment with a fine. The offence alleged to have been committed by the petitioner is grave in nature. In fact, rape cannot be considered as a mere physical assault. In an occurrence of this type, the resistance from the victim cannot be expected, there is no allegation that the victim was inimical or was acting against the instigation of somebody else. Therefore, the cases relating to granting of bail in offences of rape are required to be approached differently, as granting of bail in such cases by adopting a liberal approach would be against the interest of the society.

12. It is not necessary now to go into detail about the correctness or otherwise of the allegations made against the accused as this is a subject matter to be dealt with by the trial judge. The period of incarceration by itself would not entitle the petitioner/accused to be enlarged on bail.

13. In view of above, considering cumulative effect of entire facts and circumstances, without commenting upon the merits of the evidence and keeping in view the principles laid down by the Hon'ble Apex Court and other factors, like grievance of the offences including the severity of the punishment, manner in which it has been committed and its impact on the society, Petitioner is not entitled for bail, at this stage.

14. For all the foregoing reasons, I do not find any merit in the petition and the same is accordingly, ***dismissed***.

15. It is explicitly clarified that the observations made in this Order are preliminary and pertain solely to the decision on the present application without indicating a stance on the case's merits.

Miscellaneous applications pending, if any, shall stand closed.

JUSTICE T MALLIKARJUNA RAO

Date: 28.03.2025

SAK

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL PETITION No.1986 of 2025

Date: 28.03.2025

SAK