

APHC010318142025



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

[3369]

FRIDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL PETITION NO: 6566/2025

Between:

1. SHAIK ASIF, S/O. SHAIK FAROOD, AGED 32 YEARS, OCC.PRIVATE EMPLOYEE R/O. H.NO.1111204/1/100, ASIF NAGAR, MALLEPALLY, HYDERABAD, TELANGANA STATE.
2. RAKESH ALIAS RAKESH PAWAR, S/O. ESWAR PAWAR, AGE 28 YEARS, OCC. PVT EMPLOYEE, R/O. H.NO.II78, S.N.COLONY, RAMACHANDHRAPURAM, RAMACHANDHRAPURAM MANDAL, MEDAK DISTRICT, TELANGANA STATE.
3. NAVEEN ALIAS YADIA NAVEEN, AGE 28 YEARS, OCC.PRIVATE EMPLOYEE, R/O. H.NO.II86A, PAIUDEVARAPADU VILLAGE, MUPPALA MANDAL, GUNTUR DISTRICT, ANDHRA PRADESH.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, Rep. by its Public Prosecutor, High Court of Andhra Pradesh, Amaravathi.

...RESPONDENT/COMPLAINANT

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court Pleased to direct the S.H.O., Pattabhipuram Police Station to enlarge the petitioners / A1 to A3 on bail in the event of their arrest in connection with Crime No. 376 of 2024 on the file of Pattabhipuram Police Station, Guntur, Guntur District., and to pass

Counsel for the Petitioner/accused(S):

1.D RAVI KUMAR REDDY

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

The Court made the following ORDER:

1. This is the second Criminal Petition, under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') is filed on behalf of the petitioners/A.1 to A.3 to grant anticipatory bail in connection with Crime No.376/2024 of Pattabhipuram Police Station, Guntur.

2. A case has been registered against the petitioners herein and another for the offence punishable under Sections 143(2) and 144(2) of Bharatiya Nyaya Sanhita, 2023 (for short, 'BNS') and sections 3(1), 4(1), 5(1)(a) & 7(1)(a) of Prevention of Immoral Traffic Act.

3. The prosecution's case is that the incident occurred on 06.12.2024 at approximately 2:00 PM at Tura International SPA, Guntur. It was reported to the Pattabhipuram Police Station on the same day at 5:00 PM by the complainant, Inspector of Police. Based on credible information regarding the operation of a brothel, the complainant obtained a search warrant from the SDPO, West, Guntur District (C.No.52/SDP-WD/GNT/2024, dt.06.12.2024). He, along with his staff and mediators, conducted a search at the location and found that A.1 to A.3, with the assistance of A.4, were allegedly running a brothel under the guise of a spa. Women were reportedly brought in from various locations and recruited into prostitution in violation of government regulations. During the raid, A.2 to A.4 were apprehended, and seven victims of commercial sexual exploitation (VOCSE) were taken into custody. The police seized ₹3,000 from the cash counter, two AAOFENG walkie-talkies, a water-based lubricant (AVODA), one packet of OREDA, and Acemiz-S tablets under the cover of mediators' report.

4. Learned counsel for the petitioners contends that there is no evidence of A.1 recruiting or coercing women into prostitution. A.1 was absent during

the raid, and there are no specific allegations indicating his active involvement. The Rs.3,000/- seized was found at the counter handled by A.4, not A.2 or A.3, casting doubt on their alleged role in collecting money despite claims in LWs.5 to 11. Statements of LWs.5 to 11 (VOCSE) reveal they engaged in prostitution voluntarily due to financial hardship, receiving Rs.500/- per customer. The petitioners have not been summoned or issued notices, indicating that custodial interrogation is unnecessary. They have fixed residences, no prior criminal record, and are willing to cooperate with the investigation. Hence, counsel seeks anticipatory bail for the petitioners.

5. On the other hand, the learned Assistant Public Prosecutor, appearing for the Respondent/State, opposes the grant of anticipatory bail on the ground that the investigation is still pending.

6. Heard Sri D. Ravi Kumar Reddy, learned counsel for the petitioners and Sri G. Neelothpal, learned Assistant Public Prosecutor representing the Respondent/State. I have perused the material on record. Learned counsel on both sides reiterated their submissions on par with the contentions presented in the Petition as well as in the Report.

7. In ***Rakesh Baban Borhade V. State of Maharashtra and another***¹, the Hon'ble Apex Court observed that:

“Anticipatory bail not to be granted as a matter of rule but should be granted only when a case is made out and the Court is convinced that the accused would not misuse his liberty”.

8. As seen from the record, the petitioners previously filed an anticipatory bail application in Criminal Petition No.3593 of 2025, which this Court dismissed on 08.05.2025 after thorough consideration of arguments from both sides. While dismissing the said petition, this Court observed that, upon careful perusal of the statements of LWs.1 to 14, the petitioners operated a brothel under the guise of a spa, recruiting seven VOCSE and inducing LWs.5

¹ 2015 SAR (Criminal) 156

to 11 into prostitution for illegal profit. Additionally, this Court finds no merit in the petitioners' counsel's submission that the alleged offences lack factual substantiation.

9. Learned counsel for the petitioners submits that the crime was registered on 06.12.2024 and the investigation almost completed. The petitioners claim they are being harassed and threatened with arrest, and custodial interrogation is unnecessary.

10. The material on record indicates that the investigation is at the crucial stage. It is submitted on behalf of the Prosecution that the Police are not able to capture the petitioners even after a lapse of considerable time. It is also not the petitioners' case that they cooperated with the investigation. The investigation in this case has not been completed. The release of the petitioners may adversely affect the investigation process. There is every possibility of threatening the witnesses as apprehended by the Prosecution.

11. The anticipatory bail, the extraordinary privilege, should be granted only in exceptional circumstances, where the Court is prima facie convinced that the accused is enrope in the crime and unlikely to misuse the liberty granted. The necessity for custodial interrogation of the petitioner / accused is paramount in this case to facilitate a thorough investigation into the accusations. Denying custodial interrogation could result in significant loopholes and gaps in the ongoing investigation, adversely affecting its integrity.

12. All the contentions raised by the petitioners have previously undergone comprehensive scrutiny during the preceding bail application, culminating in its dismissal by this Court. Hence, the same contentions raised on behalf of the petitioners and the findings of this Court do not need to be reiterated.

13. Apart from a mere reiteration of arguments presented in the earlier bail petition, this present criminal petition does not introduce any new contentions that would indicate a significant change in the circumstances of the case.

14. The mere fact that the petitioners have managed to evade arrest following the dismissal of their previous anticipatory bail application cannot, in itself, constitute a legitimate or sufficient ground for granting anticipatory bail. While such conduct may suggest an intent to circumvent the due process of law, it does not, in the absence of other compelling circumstances, warrant the exercise of judicial discretion in the petitioners' favour.

15. As already noted, this is the second anticipatory bail application filed on behalf of the petitioners. It is well settled in law that successive bail applications cannot be entertained unless there has been a substantial change in the circumstances of the case.

16. In this context, it is pertinent to refer the decision of the Hon'ble Apex Court in ***State of Maharashtra V. Buddhikota Subha Rao***², wherein it is held that:

"7. xxx In the present case the successive bail applications preferred by the respondent were rejected on merits having regard to the gravity of the offence alleged to have been committed.

xxx

Once that application was rejected there was no question of granting a similar prayer. That is virtually overruling the earlier decision without there being a change in the fact situation. And, when we speak of change, we mean a substantial one which has a direct impact on the earlier decision and not merely cosmetic changes which are of little or no consequence."

17. In ***Kalyan Chandra Sarkar vs. Rajesh Ranjan***³, the Hon'ble Apex Court held that:

"20. Xxx Therefore, even though there is room for filing a subsequent bail application in cases where earlier applications have been rejected, the same can be done if there is a change in the fact

² 1989 Supp(2) SCC 605

³ (2005) 2 SCC 42

situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. This is the limited area in which an accused who has been denied bail earlier, can move a subsequent application.”

18. By following the aforementioned rulings, it is clear that unless there is a significant alteration in the factual circumstances or legal principles necessitating a reconsideration of the previous stance, or if the earlier determination has become obsolete, the second anticipatory bail application cannot be considered. In the absence of change of circumstances, this Court is not inclined to consider the petitioners' second anticipatory bail application.

19. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the observations made in the present case, which are only for adjudicating the present bail application.

20. Accordingly, the Criminal Petition is ***dismissed***.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

T. MALLIKARJUNA RAO, J

11.07.2025
SAK

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL PETITION NO: 6566/2025

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