

APHC010217732025



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

[3525]

THURSDAY, THE EIGHTH DAY OF MAY  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO**

**THE HONOURABLE DR JUSTICE K MANMADHA RAO**

**WRIT PETITION NO: 10858/2025**

**Between:**

Kesireddy Upender Reddy.

**...PETITIONER**

**AND**

The State Of Andhra Pradesh and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner:**

1. BUGULU SREETEJA

**Counsel for the Respondent(S):**

1. THE ADVOCATE GENERAL

**The Court made the following order:**

(per Hon'ble Sri Justice R. Raghunandan Rao)

The genesis of the present writ petition arises out of Crime No.21 of 2024 which was registered on 23.09.2024, under Section 420, 409 and 120-B of I.P.C in the C.I.D. police station, Mangalagiri, against unknown accused. The detinue, was arrested, on the ground that he was accused No.1 in the said crime, at 6 p.m., on 21.04.2025, in Hyderabad. The detinue was produced before the Special Judge for SPE and ACB Cases-cum-III Additional

District and Sessions Judge, Vijayawada at 5.15 p.m on 22.04.2025. The Special Judge, after perusing the record produced along with the remand report and after hearing the learned counsel for detinue had passed an order of remand, dated 22.04.2025, remanding the detinue to judicial custody under Section 187 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), till 06.05.2025, for offences under Sections 420, 409, 120-B of I.P.C and Sections 7, 7A, 8, 13(1)(b) and 13(2) of the Prevention of Corruption Act, 1988.

2. The father of the detinue has approached this Court, by way of this Writ Petition seeking a Writ of Habeas Corpus declaring the arrest of the detinue as an illegal arrest as the procedure under Section 36 of BNSS was not followed and for a further declaration that the remand order, dated 22.04.2025, passed by the Special Judge was arbitrary, illegal and contrary to well established legal principles.

3. The 5<sup>th</sup> respondent has filed a counter affidavit. Sri P. Sudhakar Reddy, the learned Senior Counsel appearing for Ms.Bugulu Sree Teja, learned counsel for the petitioner and the learned Advocate General, appearing for the respondents have made their submissions.

4. Sri P. Sudhakar Reddy, the learned Senior Counsel while reiterating the grounds raised in the affidavit, filed in support of the Writ

Petition, raised the following grounds to assail the arrest of the detenue and the subsequent remand order.

- i) The detenue was arrested even before he was named as accused No.1 in the crime. The memo to include him, as accused No.1, was filed by the Investigating Officer, only on 22.04.2025, before the Special Judge, while the detenue was arrested on 21.04.2025;
- ii) The Memo of arrest served on the detenue does not meet the requirements of Article 22 of the Constitution of India and Section 47 of BNSS. The Hon'ble Supreme Court in **Prabir Purkayastha vs. State (NCT of Delhi)**<sup>1</sup> in paragraph No.48, had held as follows:

“It may be reiterated at the cost of repetition that there is a significant difference in the phrase ‘reasons for arrest’ and ‘grounds of arrest’. The ‘reasons for arrest’ as indicated in the arrest memo are purely formal parameters, viz., to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tempering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the ‘grounds of

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<sup>1</sup> (2024) 8 SCC 254

arrest' would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the 'grounds of arrest' would invariably be personal to the accused and cannot be equated with the 'reasons of arrest' which are general in nature."

The memo of arrest did not set out any of the grounds required, as per the judgment of the Hon'ble Supreme Court;

- iii) Notice, under Section 47, served on the detainee stated that the offences against him were under Sections 420, 409, 120-B of I.P.C whereas the remand report incorporated Sections 7, 7A, 8, 13(1)(b), 1392) of the Prevention of Corruption Act, 1988. As all the provisions of the Prevention of Corruption Act, 1988 were not set out in the notice of arrest under Section 47, as well as in the grounds of arrest, required under Section 48 of BNSS, there is violation of the requirements of Article 22 of the Constitution of India read with Section 47 and 48 of BNSS.
- iv) The inclusion of these provisions in the remand report and service of the said remand report does not meet the requirements of Section 47 and 48 of BNSS or the requirements of Article 22 of the Constitution of India.

5. In reply, the learned Advocate General would contend that the requirement of Article 22 of the Constitution of India, read with Section 47 and 48 of BNSS is that the arrested person is given details of the provisions of law under which he is being charged and the facts and grounds on the basis of which he was being arrested. This is to ensure that the arrested person is aware of the case made out against him so as to equip him to counter the said case before the Magistrate at the stage of remand. The learned Advocate General would submit that the grounds of arrest as well as the provisions of the law were made known to the detinue, in writing, by virtue of service of the notice of arrest under Section 47, the grounds of arrest under Section 48 and the remand report. The learned Advocate General would also submit that all the three documents were served on the detinue before arguments were heard before the Special Judge and as such, there is compliance with the requirements of law.

6. On the question of arraying the detinue as an accused on 22.04.2025, the learned Advocate General would contend that the detinue was included as an accused, in Crime No.21 of 2024, on 19.04.2024, by way of an entry in the case diary and the memo intimating such inclusion was filed with the Special Judge, on 22.04.2025. The learned advocate General would contend that it is the date on which the Investigating Officer includes the name of an accused person that would be relevant and the filing of a memo is merely an intimation to the trial Court.

## **Consideration of the Court:**

7. Article 22(1) of the Constitution of India reads as follows:

### **22(1) Protection against arrest and detention in certain cases**

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

8. Section 47 of BNSS reads thus:

### **Section 47 BNSS| Bharatiya Nagarik Suraksha Sanhita (BNSS):**

Person arrested to be informed of grounds of arrest and of right to bail.

(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

9. The Hon'ble Supreme Court, in **Prabir Purkayastha vs. State (NCT of Delhi)**<sup>2</sup>, while interpreting these provisions, in the context of an arrest,

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<sup>2</sup> (2024) 8 SCC 254

under the Prevention of Money Laundering Act, had held in the manner extracted above. The learned Senior Counsel appearing for the detinue contends that this requirement was breached as the provisions of Prevention of Corruption Act were not included in the notice under Section 47 or under the grounds of arrest, under Section 48, which were served on the detinue, at the time of arrest and the inclusion of these provisions in the remand report would not be sufficient for meeting the requirements of Article 22 read with Section 47 and 48 of BNSS.

10. This Court, at an earlier occasion, had considered similar contentions and had held as follows:

“Though there is an issue as to whether, the grounds of arrest are required, under Article 22 of the Constitution, to be served, in writing, at the time of arrest or can be supplied ‘as soon as possible’, the same would not arise in this case, in view of the above observation of the Hon’ble Supreme Court. The aforesaid observation indicates, that such grounds of arrest can be contained in the remand application and can be served on the arrested person. Since, the application, for remand, would have to be moved, within 24 hours of arrest, such a course of action appears to have been accepted by the Hon’ble Supreme Court and would have to be followed by this Court. In the present case, it is an admitted fact, on both sides, that the remand report had been served on the detinue before the remand order was passed by the Magistrate”.

11. In the present case, both the provisions of law as well as the grounds for arrest, can be made out, on a conjoint reading of the notice under Section 47, the grounds of arrest, 48 of BNSS and the remand report which were all served on the detinue prior to the hearing of his remand application. The learned Special Judge, had specifically recorded that even the remand report had been served on the detinue prior to the commencement of the hearing before the Special Judge. The copy of the remand report, filed by the respondents, show that the detinue had signed a copy of the remand report as service of the said grounds of arrest on him. In view of the earlier judgment of this Court, it must be held that the requirements of Article 22 of the Constitution of India as well as the provisions of BNSS have been complied.

12. Sri P. Sudhakar Reddy, the learned Senior Counsel would contend that the Hon'ble Supreme Court in **Vihaan Kumar vs. State of Haryana and Another**<sup>3</sup> had observed that the remand report would not amount to service of grounds of arrest required under section 47 of BNSS. He relies upon the following paragraph in **Vihaan Kumar vs. State of Haryana and Another**:

25. A contention has been raised in the written argument that the grounds of arrest were incorporated in the remand report. This contention has been raised for the first time in written submissions before this Court. This is not pleaded in the reply filed before the High Court and this Court. The police submit a remand report before the learned Magistrate for seeking remand

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<sup>3</sup>2025 SCC Online 269

without serving a copy thereof to the arrestee. The reason is that the Police cannot divulge the details of the investigation to the accused till the final report is filed. Mentioning the grounds of arrest in the remand report is no compliance with the requirement of informing the arrestee of the grounds of arrest.

13. In **Vihaan Kumar vs. State of Haryana and Another's** case, neither the detenu nor his relatives or family members had been served with any document. In such circumstances, as can be seen from the same passage, the Hon'ble Supreme Court had held that in the absence of service of the remand report, mere inclusion of grounds of arrest in the remand report would not be sufficient compliance of Article 22 of the Constitution of India or Section 47 of BNSS. In the present case, the Special Judge had recorded that the remand report had been served on the detenu and the copy of the remand report, containing the signature of the detenu, produced by the respondents would also fortify this position. Sri P. Sudhakar Reddy contends that papers were served on the detenu after the hearing in the remand application and as such, there is no compliance of Article 22 of the Constitution of India. This contention does not appear to be correct inasmuch as the Special Judge had recorded, in the remand order, that the remand report had been served on the detenu. In these circumstances, this Court does not find any reason to interfere with the order of remand.

14. Accordingly, this Writ Petition is dismissed. However, this would not preclude the detenu from availing of his remedies under law for being set at liberty. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

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**R.RAGHUNANDAN RAO,J**

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**DR.K. MANMADHA RAO,J**

RJS

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**HON'BLE DR JUSTICE K. MANMADHA RAO**

**WRIT PETITION No.10858 of 2025**

(per Hon'ble Sri Justice R. Raghunandan Rao)

**Dt: 08.05.2025**

**RJS**