

APHC010275932025



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

[3458]

MONDAY ,THE NINTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

CRIMINAL PETITION NO: 5701/2025

Between:

Pendyala Sita Rama Anjaneyulu Ips

...PETITIONER/ACCUSED

AND

The State Of Andhra Pradesh

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1.S NAGESH REDDY

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

The Court made the following:

APHC010277962025



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

[3458]

MONDAY ,THE NINTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

CRIMINAL PETITION NO: 5748/2025

Between:

Pamidikalva Madhusudhan

...PETITIONER/ACCUSED**AND**

The State Of Andhra Pradesh

...RESPONDENT/COMPLAINANT**Counsel for the Petitioner/accused:**

1. UMESH CHANDRA P V G

Counsel for the Respondent/complainant:

1. PUBLIC PROSECUTOR

The Court made the following:**COMMON ORDER:**

These Criminal Petitions are filed under Section 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") r/w. 480 & 483 of BNSS, 2023, to enlarge the petitioners on regular bail in the event of their arrest in connection with Crime No.56 of 2025, Suryaraopeta Police Station, NTR District.

2. Though separate applications have been filed for grant of bail by both the accused, A-1 & A-2, this Court having regard to the fact that the issue involved is common, deems it appropriate to dispose of both the criminal petitions by way of a common order.

3. The petitioners are arrayed as accused, A-1 & A-2 in FIR No.56 of 2025.

4. The brief facts of the case are that based on a complaint made by Sri P. Raja Babu, IAS against the petitioner and A-2, the subject crime was

registered. The allegations are that the petitioner A-1, in Crl.P. No.5701 of 2025, while functioning as Secretary of the A.P. Public Service Commission (for short APPSC), during the relevant period, entrusted evaluation of the Answer Scripts to a private entity, represented by A-2. Thus an investigation was sought into the issue as to what exactly M/s. Camsign Media Private Limited, under the instructions of A-1.

5. It is contended that APPSC in 2018 issued a notification for Group-I to fill up 169 vacancies. The preliminary examination was conducted on 26-05-2019. On 01-11-2019, preliminary examination results were announced, and 9679 candidates qualified for the main examination. The main examination was conducted from 14-12-2020 and 20-12-2020. Upon conclusion of the main Examination the APPSC proposed for digital evaluation of answer scripts, based on the same, results were announced. Unsuccessful candidates challenging digital valuation approached this Court by way of a Writ Petition in W.P.No.10805 of 2021. The Writ Petition was allowed, setting aside the digital evaluation directing for conducting of manual evaluation.

6. In furtherance of the same, the petitioner A-1 (Crl.P. No.5701 of 2025, A-1) acting in his capacity as Secretary of the Commission, has taken a decision to shift all the answer scripts to a private building located within the premises of Haailand Resorts, Mangalgiri. And entrusted manual evaluation of the answer scripts to a private entity viz., Camsign Media Private Limited, (for short 'M/s.Camsign') represented by the Accused No. 2 in the subject crime. The said entity submitted its quotation. approving the quote offered by

Camsign, the APPSC issued work order to Camsign. In pursuance thereof the answer scripts were shifted to Haailand in December 2021, they were kept at the same place till February, 2022. It is further alleged that A-1 has issued a press statements stating that manual evaluation of answer scripts is in the final stages and the results would be released in February-2022. M/s.Camsign was paid a sum of Rs.1,14,32,312/- for the services said to have been rendered by it.

7. Thereafter, upon posting of a regular incumbent as Secretary of the APPSC, the answer scripts were got back from Haailand and were kept at the APPSC office. And evaluation was conducted at the said premises, R&B building(s) and at the government colleges buildings after printing OMR Sheets afresh, under CCTV surveillance. Results were accordingly declared, and after conducting interviews, postings were also issued.

8. The present Secretary of the Commission *vide* his letter dated 22-04-2025 to the Principal Secretary, Government (Ser.&.HRM) (FAC), GAD, complained that an in-depth investigation is required into the affairs of the M/s. Camsign, at Haailand Resorts Pvt. Ltd., under the work order issued in its favour. The said letter had led to registering the subject crime against the petitioner herein and A-2 on 25-04-2025. Investigation was conducted into the issue and A-2 was arrested on 07-05-2025 and PT warrant was issued against the petitioner A-1, he was produced before the Court on 08-05-2025 and was remanded to judicial custody.

9. Sri S. Nagesh Reddy, learned counsel for the petitioner/A-1 in Crl.P.No.5701 of 2025 contends that there has been a huge delay in registering the F.I.R., in as much as the alleged incident had taken place in December-2022, whereas the F.I.R. was registered in 2025. Further that the subject issue of availing the services of M/s.Camsign, is a collective decision of APPSC, and the same was in the course of discharging his official duties of Secretary of APPSC. Due to Covid Pandemic, such a decision has been taken for keeping the answer sheet at the premises of M/s. Haailand Resorts. He further argues none of the ingredients to constitute criminal breach of trust is attracted in the case and further relies on the decision of the Hon'ble Apex Court in the case of ***Delhi Race Club (1940) Ltd. and Ors. Vs. State of Uttar Pradesh and Ors***¹, wherein it is observed as under:-

“42. When dealing with a private complaint, the law enjoins upon the magistrate a duty to meticulously examine the contents of the complaint so as to determine whether the offence of cheating or criminal breach of trust as the case may be is made out from the averments made in the complaint. The magistrate must carefully apply its mind to ascertain whether the allegations, as stated, genuinely constitute these specific offences. In contrast, when a case arises from a FIR, this responsibility is of the police – to thoroughly ascertain whether the allegations levelled by the informant indeed falls under the category of cheating or criminal breach of trust. Unfortunately, it has become a common practice for the police officers to routinely and mechanically proceed to register an FIR for both the offences i.e. criminal breach of trust and cheating on a mere allegation of some dishonesty or fraud, without any proper application of mind.

43. It is high time that the police officers across the country are imparted proper training in law so as to understand the fine distinction between the offence of cheating viz-a-viz criminal breach of trust. Both offences are independent and distinct. The two offences cannot coexist simultaneously in the same set of facts. They are antithetical to each other. The two provisions of the [IPC](#)

¹ AIR 2024 SC 4531

(now BNS, 2023) are not twins that they cannot survive without each other.”

He further relies on the decision of the Hon’ble Apex Court in the case of ***Common Cause, A Registered Society Vs. Union of India (UOI) and Ors***², in support of his contention, that there is no criminal breach of trust.

10. He argues that the allegation made in the complaint does not point out any ingredients of an offence(s) as alleged. He further urges placing reliance on the judgment of Apex Court in the case of ***Delhi Race Club (1940) Ltd. and Ors. Vs. State of Uttar Pradesh and Ors.***, that the offence of cheating and offence of criminal breach of Trust cannot coexists together. He further argues that the petitioner being a government servant “breach of trust” cannot be invoked against him, without any preliminary investigation and without obtaining sanction under Section.197 Cr.P.C.

11. He further urges that in order to attract liability under Section 409 of I.P.C., there should be an entrustment of the property to the petitioner whatever the amounts that were paid to the A-2 were towards his services rendered to the APPSC. He further draws the attention of the Court to counter affidavit filed on behalf of the APPSC, argues that the APPSC has admitted that the entire process of evaluation was done transparently, efficiently and in a verifiable manner.

12. He further contends since the entire issue is seized of by High Court in W.A. No.248 of 2024, initiating criminal proceedings against the

² AIR 1999 SC 2979

petitioner are not maintainable. He argues that except the offence under Section 409, all other offences are below seven years. He submits that the petitioner being a government servant who has been suspended from service and is ordinarily resident of Hyderabad question of interfering with investigation process initiated would not arise. He further submits that it's been 30 days since the F.I.R. was registered and the police have also sought for police custody, the same was granted by the learned trial Judge for two days. The learned counsel further submits that the petitioner has been facing severe cardiac issues and the medical report suggests for angioplasty. Thus prays for enlargement of petitioner on subject to imposition of any conditions.

13. Sri P.V.G. Umesh Chandra, learned counsel appearing for the petitioner/A-2 in CrI. P.No.5748 of 2025, would contend that the petitioner was only responsible for execution of work in terms of the work order issued in his/its favour and he has nothing to do with any of the alleged crime(s). He argues that the decision as regards the evaluation of the papers is not within the domain of the petitioner, it is for the concerned authorities of the APPSC. And in that process, nothing can be attributed to the petitioner, since he is a private individual and not privy to any of the decisions of the APPSC. And no overt acts have been attributed to the petitioner (A-2).

14. Sri A. Sai Rohit, learned Assistant Public Prosecutor appearing on behalf of learned Public Prosecutor submits that as many as 26 witnesses were examined. He further submits that A-1 has proposed for manual evaluation of answer scripts at private premises and he further points out that

from the investigation, it has come to light that for the purpose of evaluation of answer scripts of Group-I main examination, school teachers, who are not qualified for evaluating a Group-I main paper, were engaged and further investigation into the complaint lodged is pending and both the A-1 & A-2 are not cooperating with the enquiry and are giving evasive replies. He further submits that the sanction as contemplated under Section 197 Cr. P.C. is not relevant at this stage as the case is still under investigation. Thus he submits that since the investigation is at threshold and enlargement of the A-1 & A-2 at this stage would hamper the investigation in as much as there is every likelihood that they may tamper with the evidences(s) / influence the witnesses.

15. Considered the rival submissions.

16. The case of the prosecution is that the A-1, had issued a press statement that the Manual evaluation of answer scripts of the Group-I, main examination is on the verge of completion by February, 2022, and in connection with the same, certain expenditure was incurred by the APPSC. The petitioner in his capacity as Secretary of the APPSC had hired the services of M/s. Camsign's logistical support to be rendered at Haailand Resorts and issued cheque for a sum of Rs.1,14,32,312/-, on behalf of APPSC. Later the successor in-officer of the petitioner has again ordered for evaluation of the answer scripts by shifting them to the premises of the Commission and other departments. After completion of the said evaluation, results were announced.

17. The unsuccessful candidates in the said manual evaluation have approached this Court by way of Writ Petition, contending that manual evaluation as per the directions of this Court was initially commenced at Haailand Resorts and the Commission has also incurred substantial expenditure in connection with the same, coupled with the press statement of the Petitioner herein (A-2), the APPSC ought not to have resorted to manual evaluation for the second time. The results declared pursuant to the 2nd manual evaluation were set aside by this Court *vide* order dated 13-03-2024. However, the successful candidates who were given posting orders are continuing pursuant to the orders passed in W.A.No.248 of 2024 and batch of cases.

18. In connection thereto, the subject complaint has been lodged to enquire into issue to find out as to what exactly was the service rendered by M/s. Camsign at the premises of M/s. Haailand Resorts under the instructions and supervision of the petitioner herein.

19. Chapter XVII of I.P.C. deals with offences against property Section 405 dealing with criminal breach of trust, which is defined as follows:

“Section 405: Criminal breach of trust:-

Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes off that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits “criminal breach of trust.”

20. Section 409 of I.P.C. deals with criminal breach of trust by public servant, or by bank, merchant or agent, which provides as under:

“Section 409: Criminal breach of trust by public servant, or by banker, merchant or agent:

Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

21. The allegation against A-1 is that in his capacity as a Secretary of APPSC at the relevant point of time in the absence of a regular Chairman, has taken a decision to keep the answer scripts of Group-I main examinations for safe custody and evaluation of the same at the premises of M/s. Haailand Resorts. In connection with the same, for carrying out the exercise of evaluation of answers scripts, he has availed the services of M/s. Camsign represented by A-2 and has also issued cheque for an amount of Rs.1,14,32,312/-. The allegations leveled against the petitioner calls for investigation which is at threshold stage.

22. With regard to sanction under Section 197 of Cr.P.C., is concerned, the reliance made by the petitioner on a decision of Hon'ble Apex Court in the case of ***D.T. Veerupakshappa Vs. C. Subash***,³ which arose out of quash proceedings under 482 of Cr.P.C., wherein it is observed as under:

³ AIR 2015 SC 2022

“9. In *Om Prakash* (supra), this Court after referring to various decisions, particularly pertaining to the police excess, summed-up the guidelines at paragraph-32, which reads as follows:

32. The true test as to whether a public servant was acting or purporting to act in discharge of his duties would be whether the act complained of was directly connected with his official duties or it was done in the discharge of his official duties or it was so integrally connected with or attached to his office as to be inseparable from it (K. Satwant Singh). “The protection given under 197 of the Code has certain limits and is available only when the alleged act done by the public servant is reasonably connected with the discharge of his official duty and is not merely a cloak for doing the objectionable act. If in doing his official duty, he acted in excess of his duty but there is a reasonable connection between the act and the performance of the official duty, the excess will not be a sufficient ground to deprive the public servant of the protection.” (Ganesh Chandra Jew). If the above tests are applied to the facts of the present case, the police must get protection given under [Section 197](#) of the Code because the acts complained of are so integrally connected with or attached to their office as to be inseparable from it. It is not possible for us to come to a conclusion that the protection granted under [Section 197](#) of the Code is used by the police personnel in this case as a cloak for killing the deceased in cold blood.

(Emphasis applied)

10. In our view, the above guidelines squarely apply in the case of the appellant herein. Going by the factual matrix, it is evident that the whole allegation is on police excess in connection with the investigation of a criminal case. The said offensive conduct is reasonably connected with the performance of the official duty of the appellant. Therefore, the learned Magistrate could not have taken cognizance of the case without the previous sanction of the State Government. The High Court missed this crucial point in the impugned order.”

23. From the above principle, it can be said that unless it is established that the alleged act was in excess of discharge of his official duties, and there is a reasonable connection between the act and the performance of official duty, the protection under [Section 197](#) of the Cr.P.C.,

would not arise. In the facts and circumstances of the present case, since the investigation is at the threshold, the protection as envisaged under Section 197 of Cr.P.C., would not enure to the benefit of the petitioner A-1.

24. It is an admitted legal position that in cases relating to grant of bail, the Court has to bear in mind the nature of allegations made against the accused, the punishment if convicted, and the character of the accused whether the presence of the Accused would be secured during the course of trial and is there a reasonable apprehension of witnesses being tampered.

25. Having regard to the nature of allegations made against the petitioners and since the investigation is at threshold stage, this Court does not deem it appropriate to enlarge the petitioners i.e., A-1 & A-2 in Cr. No.469 of 2024 on bail.

26. However, having regard to the medical condition of the A-1 as pointed out by the learned counsel and discharge summary card issued Government General Hospital, Siddhartha Medical College, Vijayawada, a perusal of which reflects that the patient requires hospital stay on account of accelerated HTN, the petitioner A-1 was however appears to have been discharged against medical advice since he was reluctant.

27. Having regard to the same, this Court grants liberty to the petitioner in CrI.P. No.5701 of 2025, A-1 to move an application before I Additional Judicial Magistrate of First Class, Vijayawada, seeking grant of medical bail for a limited period of two (2) weeks. Upon filing of such an

application, the learned Judge, after calling for report afresh on the medical condition of the petitioner, from the GGH, Vijayawada, is directed to dispose of the same as expeditiously as possible, not later than two (2) weeks, from the date of filing of the same, on such terms and conditions as it may deem fit and proper.

28. With the above observations, the Criminal Petition No.5701 of 2025 is disposed of and Criminal Petition No.5748 of 2025 is dismissed.

JUSTICE KIRANMAYEE MANDAVA

Dt.09.06.2025
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THE HON'BLE SMT JUSTICE KIRANMAYEE MANDAVA

Crl.P.Nos.5701 & 5748 of 2025

Date: 09.06.2025

MVK