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APHC010339802026

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

[3504]

TUESDAY, THE 7th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 5443 of 2026

Between:

1. THE STATE OF ANDHRA PRADESH, THROUGH THE INVESTIGATION OFFICER, SPECIAL INVESTIGATION TEAM, ADDL. SUPERINTENDENT OF POLICE (ADMIN) BAPATLA DISTRICT, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF AP AT AMARAVATI.

...PETITIONER/ACCUSED

AND

1. SUDA SURESH VEERA VENKATA NAGA RAJU, S/o. Krishna Rao, aged 53 years, the then Inspector of Police, Krishna Lanka PS, R/o.Flat No.301, Avasa Brindavan Apartment, Near Loyola College, Vijayawada.

...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 set aside/modify the conditions in the Order dated 02.07.2026 passed in CrI.M.P.No.1400 of 2026 by the Hon'ble II ADDL Judicial Magistrate of First Class, Vijayawada in connection with Crime No. 107 of 2026 of Krishna Lanka PS, more particularly the specific conditions 28.1; 28.4; 28.5; 28.10; 28.13; 28.14 and 28.15 imposed in the above Order and

consequently allow the Investigating Officer to conduct custodial interrogation of the accused in the jurisdictional police station and to pass

IA NO: 1 OF 2026

Petition under Section 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 may be pleased to dispense with the filing of Original Copy of Order dated 02.07.2026 passed in Crl.M.P.No.1400 of 2026 by the Hon'ble II ADDL Judicial Magistrate of First Class, Vijayawada in connection with Crime No. 107 of 2026 of Krishna Lanka PS and to pass

IA NO: 2 OF 2026

Petition under Section 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 may be pleased may be pleased to permit the Investigating Officer to conduct custodial interrogation of the accused in connection with Crime No. 107 of 2026 of Krishna Lanka PS in the jurisdictional Police Station, pending disposal of the above Criminal Petition and to pass

IA NO: 3 OF 2026

Petition under Section 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 may be pleased to suspend the operation of the Order dated 02.07.2026 passed in Crl.M.P.No.1400 of 2026 by the Hon'ble II ADDL Judicial Magistrate of First Class, Vijayawada in connection with Crime No.107 of 2026 of Krishna Lanka PS, pending disposal of the above Criminal Petition, and to pass

Counsel for the Petitioner/accused:

1. PUBLIC PROSECUTOR

Counsel for the Respondent/complainant:

1. CHALLA AJAY KUMAR

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 5443 of 2026

The Court made the following Order:

This Criminal Petition, under Section 528 of the Bharatiya Nagarik Suraksha Sanhitha, 2023, (for short "BNSS") has been filed by the State of Andhra Pradesh through Public Prosecutor to set aside/modify the conditions imposed by learned II Additional Judicial Magistrate of First Class, Vijayawada *vide* Order dated 02.07.2026 in CrI.M.P.No.1400 of 2026.

2. Heard Sri M.Lakshmi Narayana, learned Public Prosecutor representing the petitioner-State and Sri Challa Ajay Kumar, learned counsel for the respondent-accused and perused the material available on record.

3. For the disposal of the instant Criminal Petition, the brief facts are delineated hereunder:

i) FIR in Crime No.107 of 2026 of Krishna Lanka Police Station, Vijayawada was registered for the offences punishable under Sections 127(4), 127(6) & 103(1) of BNSS and Section 238 of Bharatiya Nyaya Sanhitha, 2023 (for short "BNS"). As per the version of the prosecution, one Gade Sai Krishna against whom Non-Bailable Warrants

were pending, was apprehended at Markapur on 06.05.2026 at 03:00 AM, as per the requisition made by the Respondent herein in the capacity of Inspector of Police, Krishna Lanka Police Station and the said G.Sai Krishna was handed over to the Krishna Lanka Police Station personnel. Despite of the same, the said G.Sai Krishna has not been produced before the concerned jurisdictional Magistrate, as mandated under the law. Thereafter, where-abouts of the said G.Sai Krishna were not known.

ii) It is the further case of prosecution that the said G.Sai Krishna was allegedly killed in the illegal custody of Respondent-Police Officer, with the assistance of other police personnel. Indisputably, for the last several weeks, said G.Sai Krishna, has not been produced either in person or his dead body, despite specific directions of Hon'ble Division Bench of this Court in WP No.15132 of 2026.

iii) It is apparent from the record that in view of facts and circumstances involved in the *lis*, the State of Andhra Pradesh formed a Special Investigation Team (SIT) comprising of the best Police personnel, to unravel the truth in the said crime.

iv) In the wake of referred facts, the prosecution has preferred CrI.M.P.No.1400 of 2026, before the concerned Magistrate under Section 187 of the Bharatiya Nagarik Suraksha Sanhitha, 2023 (for short "BNSS") seeking police custody of the respondent-accused by setting out specific reasons, wherein, respondent has filed objections/counter by resisting the police custody, mainly on the ground that the said police custody is sought to frame him.

v) Learned Magistrate after noting all the contents of the Petition, as well as the averments made in the counter affidavit and also taking note of the well-settled legal principles, allowed the said petition *vide* Order dated 02.07.2026 by imposing certain conditions.

vi) Now, in the present Criminal Petition, the prosecution is challenging some of the conditions on the ground that the conditions are coming in the way of investigation and they are nothing but hurdles on the prosecution. For the sake of a comprehensive view, the conditions seeking to set-aside/modify are delineated as under:

> 28.1. The Respondent/accused shall be entitled to nominate two advocates, namely Sri P.Baburao and one other advocate of his choice, to

be present at the Central Prison, Rajamahendravaram, during police custody. However, only one advocate shall be permitted to remain present at any given point of time during the interrogation.

28.4. The Investigating Officer shall ensure that the entire interrogation is conducted within the coverage area of the CCTV cameras or any other video recording system installed in the jail premises, so as to ensure transparency, fairness and accountability.

28.5. The entire period of police custody, including every session of interrogation, shall be continuously video-graphed and audio-visually recorded without any interruption, pause or editing.

28.10. The Jail Superintendent/Jailor shall permit the presence of one advocate during the interrogation of the accused in accordance with the above conditions and subject to the provisions of the Jail Manual.

28.13. The Jail Superintendent shall ensure that the CCTV footage recorded within the jail premises during the period of police custody is preserved intact until further orders of this Court and shall not permit its deletion, overwriting or tampering.

28.14. The Investigating Officer, the Additional Superintendent of Police, the members of the SIT, and the Jail Superintendent shall be jointly and severally responsible for ensuring the safety, life and

physical well-being of the accused/A1/Suda Suresh Veera Venkata Naga Raju, throughout the period of police custody.

28.15. Under no circumstances, shall the period of police custody granted under this order be extended beyond 10.07.2026.

4. Sri M.Lakshmi Narayana, learned Public Prosecutor representing the petitioner-State submits that in order to conduct fair and effective investigation and to trace out the corpse of said G.Sai Krishna and to reconstruct the scene of offence, at the place of occurrence i.e., Krishna Lanka Police Station, Vijayawada, and also to take necessary steps for recovery of material evidence, the presence of respondent-accused is just and essential at Vijayawada. He also elaborates that in view of the heinous crime committed by the respondent, by misusing his official capacity as a Police officer and his frantic efforts to screen the evidence i.e., corpse of G.Sai Krishna, and also the designed missing of CCTV Footage of Krishna Lanka Police Station for the crucial period i.e., from 01.05.2026 to 01.06.2026, the presence of respondent at Vijayawada is essentially required, to continue with the investigation.

5. Learned Public Prosecutor mainly asserts that the condition of confining the police custody to the premises of Central Prison, Rajamahendravaram, is against the statutory scheme, as envisaged under Section 23 and 180 of BNSS. He vehemently submits that conducting the police investigation exclusively at Central Prison, Rajamahendravaram is detrimental to the prosecution to unravel the truth in the crime. Learned Public Prosecutor during the course of arguments submits that as of today i.e., 06.07.2026, the Investigation Agency (SIT) has not proceeded with the Police Custody, from 03.07.2026 onwards.

6. Substantiating his assertions, learned Public Prosecutor relied upon the dictum of the Hon'ble Apex Court in ***State of Bihar and Another Vs. PP Sarma IAS and Another***[1]***, P.Chidambaram Vs. Directorate of Enforcement***[2] and ***Central Bureau of Investigation Vs. Vikas Mishra @ Vikash Mishra***[3].

7. On the other hand, learned counsel for the respondent-accused by reiterating the assertions made in the Counter Affidavit, mainly submits that the entire Police Department is determined to frame the respondent in the said Criminal case and

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[1] 1991 (SUPP) 1 SCC 222
[2] 2019 (9) SCC 24
[3] 2023 (6) SCC 49

sought for the Police Custody. He also apprehends that there is a life threat to the Respondent, during the course of interrogation in the Police Custody. He mainly asserts that in view of tremendous pressure from the public, the Respondent Police are making every effort to rope him in the said case, without there being any supportive evidence. Lastly, he submits that there is no prejudice to the rights of the SIT in conducting investigation against the accused at Central Prison, Rajahmundry which is equipped with all the modern infrastructure facilities.

8. Substantiating his assertions, learned counsel for respondent relied upon the dictum of the Hon'ble Apex Court in ***Nandini Satpathy Vs. P.L.Dani and Another***[4] and ***D.K.Basu Vs. State of West Bengal***[5] wherein it is stated that custodial violence, including torture and death in police custody, is the worst kind of crime in a civilized society governed by the rule of law.

9. Now the point for consideration before this Court is:

i) Whether the conditions imposed by the learned Magistrate *vide* Order dated 02.07.2026 in Crl.M.P.No.1400 of 2026 are liable to be interdicted or modified?

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[4] (1978) 2 SCC 424
[5] (1997) 1 SCC 416

ii) If so, to what extent ?

10. Having regard to the above facts and circumstances of the case and also considering the rival submissions asserted by learned counsel on both sides, indisputably, a Crime in FIR No.107 of 2026 was registered under Sections 127(4), 127(6) & 103(1) of BNSS and Section 238 of BNS against the respondent, who is none other than, the then Police Inspector, Krishna Lanka Police Station, Vijayawada.

11. According to the Prosecution, there is *prima facie* evidence which suggests the active involvement of the respondent along with the other police personnel in screening the evidence i.e., CCTV Footage as well as the corpse of G.Sai Krishna. Whereas, the contra version of Respondent is that the Petition for police custody is filed only with a sole intention to frame the Respondent in the crime. Further, the respondent apprehends life-threat from the Investigation Authority, under the guise of interrogation.

12. Apparently, as of now the whereabouts or corpse of said G.Sai Krishna is yet to be known. More so, there is a serious allegation of missing of CCTV Footage for the relevant period, so as to cover their ill-acts in the Police Station and as such,

manipulated the CCTV Footage and Hard-disk etc., in respect of the said crucial period, wherein the alleged killing of G.Sai Krishna was taken place in the illegal police custody.

13. In the light of above facts and circumstances, conducting the Police investigation exclusively at Central Prison, Rajamahendravaram may put hurdles on the Investigation Agency, to proceed with the statutory investigation powers vested with them, to unravel the truth.

14. For effective and easy understanding, Section 23 of the Bharatiya Sakshya Adhiniyam, 2023 (for short "BSA") and Section 38 and 180 of BNSS is extracted hereunder:

> ***Section 23 of BSA**: Confession to police officer:*
>
> *(1) No confession made to a police officer shall be proved as against a person accused of any offence*
>
> *(2) No confession made by any person while he is in the custody of a police officer, unless it is made in the immediate presence of a Magistrate shall be proved against him;*
>
> *Provided that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact discovered, may be proved.*

…….

***Section 38 of BNSS**. Right of arrested person to meet an advocate of his choice during interrogation:*

When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.

……..

***Section 180 of BNSS**. Examination of witnesses by police:-*

(1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

Emphasis supplied

15. In view of the importance and significance of Section 23 of BSA, in the present context of facts of the case, it is apt to state that dictum of the Apex Court in ***Raja Khan Vs State of Chattisgarh***[6] on 07.02.2025 vividly discussed Section 27 of the Indian Evidence Act, whch is now enunciated as Proviso Clause in Section 23 of the BSA, 2023. Essential ingredients of Section 27 of the Evidence Act are threefold:

> *i. The information given by the accused must led to the discovery of the fact which is the direct outcome of such information.*
>
> *ii. Only such portion of the information given as is distinctly connected with the said recovery is admissible against the accused.*
>
> *iii. The discovery of the facts must relate to the commission of such offence.*

Thus, in view of the above statutory realm as well as the true purport of the Apex Court in the context of peculiar facts in the case is apt. Hence, this Court is formulating its view by centrally relying upon the above reasoning.

16. Hence, in the light of statutory provisions as well as powers of Investigating Agency and also considering its object and intendment, Hon'ble Hon'ble Supreme Court in ***P.Chidambaram*** referred supra, wherein Hon'ble Apex Court vividly held that the statutory power and functions of the Judicial intervention should

[6] 2025(3) SCC 314

not impede the investigation being conducted by the Investigation Agency, unless there are exceptional circumstances and the same was reiterated by the Hon'ble Apex Court in ***State of Bihar*** stated supra, and ***Central Bureau of Investigation*** stated supra. More particularly, doctrine of confirmation of subsequent events, is part and parcel of the investigation to unfold the real truth.

17. Yet another significant facet in the *lis* is that on one hand, the prosecution alleges that respondent-accused while discharging his official duties as police officer, purposefully made efforts to dislodge and manipulate the CCTV Footage to cover his ill-acts. While coming to his case, the Respondent-the then Police Inspector is seeking the aid of the very same device mechanism, during the course of interrogation. Self-contradictory stand of respondent appears to be approbate and reprobate, but does not mean that his plea cannot be declined in the light of statutory mandates.

18. Considering the Constitutional mandates which were vividly explained by the Hon'ble Apex Court in series of its remarkable Judgments, this Court being the Constitutional Court, which is guardian to protect the rights of accused as well as the statutory powers of Investigating Agency in it's true letter and spirt and also

by striking the balance between the above two facets, is inclined to dispose of the Criminal Petition by modifying the Order dated 02.07.2026 in Crl.M.P.No.1400 of 2026 of the learned II Additional Judicial Magistrate of First Class, Vijayawada to the following extent:

i) The period of police custody shall commence from 09.07.2026 and end by 16.07.2026;

ii) The Investigation Officer of Special Investigation Team (SIT) is allowed to take the Respondent/Accused to the scene of offences for recovery of material evidence, reconstruction of scene of offence and for such other purposes, in accordance with the law, in the event of facts revealed by the respondent-accused;

iii) The Special Investigation Team (SIT) shall take all necessary steps by considering the ground realities to videograph the every movement of the accused right from Central Prison, Rajamahendravaram to Vijayawada and *vice-versa*; and the Investigation Officer of the Special Investigation Team (SIT) shall submit the said videographic recordings in its original form before the concerned Jurisdictional Magistrate at Vijayawada, by 17.07.2026;

iv) The Jail Superintendent, Central Prison, Rajamahendravaram shall submit the entire CCTV Footage recorded in the Central Prison, Rajamahendravaram, during the course of Police custody, in its original form, to the concerned Jurisdictional Magistrate at Vijayawada, by 17.07.2026;

v) The Investigation Officer and all the members of SIT are hereby directed to take all positive steps to protect the life, limb and personal dignity of respondent/accused in the light of constitutional safeguards, during the entire period of Police Custody.

vi) All the other conditions imposed by learned II Additional Judicial Magistrate of First Class, Vijayawada *vide* Order dated 02.07.2026 in Crl.M.P.No.1400 of 2026 shall remain in-tact.

vii) Special Investigation Team (SIT) shall conduct the impartial and scientific method of investigation, to unravel the truth and to uphold the integrity of "*Satyameva Jayate*", the national motto of India.

19. Accordingly, this Criminal Petition is allowed-in-part.

20. Needless to state that the investigation shall proceed uninfluenced by any observations made by this Court, as such observations have been made solely for the purpose of disposing of the present Criminal Petition.

Interlocutory applications, if any, pending shall stand closed.

JUSTICE MAHESWARA RAO KUNCHEAM

Date: 07.07.2026
Note: Issue C.C. by today i.e., 07.07.2026
B/o.
PSA

Whether the Order is:

Speaking	✓	Reasoned	
Reportable		Non-reportable	✓

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 5443 of 2026

Date: 07.07.2026

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