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APHC010431672026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

FRIDAY, THE 27th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 7139/2026

Between:

SK SAIF AHAMED, S/O. MD. RAFI,AGED 31 YEARS, R/O. 6-242, OTERU KALUVA SRI KALAHASTHI POST, TIRUPATHI DIST, A.P.,PRESENTLY RESIDING AT DUBAI, UAE.,

...PETITIONER/ACCUSED

AND

THE STATE OF ANDHRA PRADESH, REP. BYTHE ADDL SUPERINTENDENT OF POLICE,CID/SIT PS, MANGALAGIRI, GUNTUR DIST. A.P.

...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 Call for the records relating to the Proclamation Orders Dt.08- 07-2026 passed in CrI.M.P. No 1482 of 2026 in Crime No.21 of 2024 by the Honble Special Judge For SPE & ACB Cases cum III Addl. DIST. & Sessions Judge At Vijayawada, directing the Petitioner/Accused No. 10 to appear before to answer the said complaint on the 10th day of August, 2026 at 10.30 AM without giving a clear 30 days time period from the date of the publication as contemplated under section 84(4) of BNNS,2023 and quash the said Proclamation Order dated 08-07- 2026 in CrI.M.P. No 1482 of 2026

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 STAY of all further proceedings pursuant to the impugned proclamation Order Dt. 13-07-2026 passed in CrI.M.P. No 1482 of 2026 on the file of the court of the Hon'ble Special Judge For SPE & ACB Cases cum III Addl. DIST. & Sessions Judge At Vijayawada arising out of Crime No.21 of 2024 on the file of the CID / SIT PS, Mangalagiri, Guntur pending disposal of the Criminal Petition.

Counsel for the Petitioner/accused:

1. ROSEDAR S.R.A

Counsel for the Respondent/complainant:

1. JAVVAJI SARATH CHANDRA

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No.7139 OF 2026

ORDER:

This Criminal Petition is filed to quash the order dated 08.07.2026 passed by the learned Special Judge for SPE & ACB Cases-cum-III Additional District and Sessions Judge, Vijayawada in Crl.M.P. No.1482 of 2026 in Crime No.21 of 2024 of CID/SIT Police Station, Mangalagiri, Guntur District.

2. Case of the petitioner in brief is thus, **t**he petitioner is arrayed as accused No.10 in Crime No.21 of 2024, he is an Indian citizen holding Passport No. R1867633 and is presently residing and employed at Dubai, United Arab Emirates, he left India on 09.08.2024 through Rajiv Gandhi International Airport, Hyderabad, which is well prior to the registration of the First Information Report in Crime No.21 of 2024 on 23.09.2024, the investigating agency filed a petition in Crl.M.P. No.1482 of 2026 before the learned Special Judge to initiate proceedings under Sections 84 and 85 of the BNSS (corresponding to Sections 82 and 83 of the Cr.P.C.), to declare the petitioner as a proclaimed offender and attach his properties. By the impugned order dated 08.07.2026, the learned Special Judge declined property attachment for want of particulars, but directed the issuance of a proclamation requiring the petitioner to appear before the Trial Court on 10.08.2026 at 10:30 a.m. Feeling aggrieved by the said order, the petitioner filed the instant petition.

3. Heard Sri Rozedar SRA, learned counsel for the petitioner and Sri B.Adinarayana Rao**,** learned senior counsel representing learned special public prosecutor for CID. Perused the material available on record.

4. Learned counsel for the petitioner would argue that the issuance of a proclamation under Section 84 of the BNSS is a serious coercive process affecting the valuable rights and personal liberty of an individual and the statutory

requirements have to be strictly adhered to, nearly six weeks before the registration of the FIR on 23.09.2024, the petitioner left India on 09.08.2024 for his employment and therefore, his stay abroad cannot be construed as absconding or concealing himself to evade a warrant. Learned counsel further contended that the Investigating Officer suppressed the petitioner's departure on 09.08.2024, leading the Trial Court, to erroneously conclude that the petitioner was in India after 03.01.2024. Further, Section 84 of the BNSS mandates a clear period of not less than thirty days from the date of publication of the proclamation for the appearance of the accused and not from the date of the order, the mandatory period of 30 days from the date of publication is not observed by the learned Trial Court, acts abscondance is not proved, no examination is conducted to show that he had absconded, prosecution not placed correct material before the learned Special Court, and relied upon the judgments in ***M.S.R. Gundappa v. State of Karnataka***[1]***, Rohit Kumar alias Raju v. State of NCT of Delhi***[2]***, Mahendra Kumar Ruiya v. State of Jharkhand***[3]***, Dilbagh Singh alias Sonu v. State of Punjab***[4]***, H.P. Nikhil Petrol Pump and Another v. Ravi Kumar***[5]**, ***Mandeep Singh v. State of Punjab***[6]**, ***Sher Mohammad v. Ramsons Aqua Limited***[7]**, and ***L. Hirday Naraian v. Income Tax Officer***[8]**.**

5. Per contra, learned Senior Counsel submitted that the petitioner is a prime accused in a massive conspiracy involving cheating, criminal breach of trust and corruption in the Andhra Pradesh State Beverages Corporation Limited (APSBCL), causing huge loss to the public exchequer and on 19.07.2025, charge sheet is filed showing the petitioner as absconding and a Non-Bailable

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[1] (1977 CriLJ 1873)
[2] (2008 CriLJ 3561)
[3] MANU/JH/1072/2013
[4] 2015 SCC OnLine P&H 9146
[5] 2024 PHHC 087055
[6] CRM-M-4347-2026 (O & M)
[7] CRM-M-12906-2026 (O & M)
[8] AIR 1971 SC 33

Warrant (NBW) is issued by the learned Trial Court, they could not execute the same and finally on 28.10.2025, returned the non-bailable warrant issued against the petitioner. Learned Senior Counsel emphasized that the present case is only at the preliminary stage of issuing a proclamation notice under Section 84(1) of the BNSS requiring the appearance of the accused and not at the stage of declaring him as a proclaimed offender under Section 84(4) of the BNSS and so far, the petitioner has not been declared as a proclaimed offender and as such, the present petition is premature and liable to be dismissed.

6. The case of the prosecution, as borne out from the FIR and the petition filed in Crl.M.P. No.1482 of 2026, basing on the representation alleging large-scale irregularities and corruption in the procurement of liquor by APSBCL between October 2019 and March 2024, an Internal Committee conducted an enquiry and found suppression of established popular brands, preferential allocation of Orders for Supply (OFS) to new brands in violation of norms, and shifting of automated procurement to a manual process. Upon the report of the Principal Secretary to Government, Revenue (Vigilance-IV) Department, Crime No.21 of 2024 was registered on 23.09.2024 by CID Police Station, Mangalagiri, for offences punishable under Sections 409, 420, 120-B, 384, and 201 read with Sections 34 and 37 of the IPC and Sections 7, 7-A, 8, 9, 12, 13(1)(a), and 13(2) of the Prevention of Corruption Act, 1988. During the investigation, the Investigating Officer examined 567 witnesses, whose statements revealed that accused No.10 acted as a key financial operative, confidential sales data handler, cash courier, and money-laundering facilitator for the liquor syndicate under the instructions of accused Nos.1 and 9. Further, accused No.10 collected confidential APSBCL sales data to compute brand-wise kickbacks, collected huge cash amounts from distilleries and suppliers, stored approximately Rs.20 to 25 crores of kickback money at O2 Square Apartments in Hyderabad and routed the proceeds through banking channels and shell entities. Following

the filing of the charge sheet on 19.07.2025, an NBW was issued against the petitioner on 28.07.2025, which remained unexecuted despite searches and enquiries with local revenue officials, neighbours, and family members. Consequently, the prosecution filed Crl.M.P. No.1482 of 2026 seeking proclamation and attachment proceedings.

7. Perused the impugned order dated 08.07.2026, the petition filed by the prosecution, the copy of the FIR, the passport extracts filed by the petitioner, and the judgments relied upon by the learned counsel for the petitioner.

8. Before examining the factual matrix, it is necessary to look at the statutory scheme governing proclamation under Section 84 of the BNSS (which is in *pari materia* with Section 82 of the Code of Criminal Procedure, 1973). Sub-section (1) of Section 84 of the BNSS empowers a Court to publish a written proclamation requiring a person to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation, if the Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed. Sub-section (2) prescribes the specific modes in which the proclamation must be published, namely, public reading in a conspicuous place of the town or village, affixture to a conspicuous part of the house or homestead, affixture to a conspicuous part of the Court-house, and publication in a daily newspaper if directed by the Court. Sub-section (3) makes a statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day conclusive evidence that the requirements of the section have been complied with. Finally, Sub-section (4) provides that where a proclamation published under Sub-section (1) is in respect of a person accused of certain specified grave offences and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry

as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

9. A plain reading of Section 84 of the BNSS makes it clear that the proceedings unfold in two distinct stages. The first stage under Section 84(1) is the issuance and publication of a written proclamation giving the accused a statutory minimum notice of not less than thirty days from the date of publication to appear before the Court. The second stage under Section 84(4) arises only *after* the proclamation has been duly published in accordance with Section 84(2) and the accused fails to appear within the stipulated time, whereupon the Court may conduct an inquiry and pronounce him a "proclaimed offender." As rightly pointed out by the learned Senior Counsel for the respondent CID, the impugned order dated 08.07.2026 is only at the first stage of ordering the issuance of a proclamation notice under Section 84(1) of the BNSS, and the learned Special Judge has not yet declared the petitioner as a proclaimed offender under Section 84(4) of the BNSS.

10. However, the matter does not end there. Even at the first stage of issuing a proclamation under Section 84(1) of the BNSS, the law requires strict compliance with two mandatory conditions that firstly, the Court must record its subjective satisfaction based on material on record that the person against whom a warrant was issued has absconded or is concealing himself to evade execution of the warrants; and secondly, the proclamation must afford a clear period of not less than thirty days from the date of *publication* of the proclamation for the person to appear.

11. In the judgments relied upon by the learned counsel for the petitioner—namely, ***M.S.R. Gundappa (supra)***, ***Rohit Kumar alias Raju (supra)***, ***Mahendra Kumar Ruiya (supra)***, ***Dilbagh Singh alias Sonu (Supra)***, and ***Mandeep Singh*** *(supra)*—the High Courts have consistently held that the

provisions of Section 82 of the Cr.P.C. (now Section 84 of the BNSS) are mandatory in nature and not merely directory. It is a settled principle of law that the statutory period of thirty days must be counted from the date of actual publication of the proclamation under Sub-section (2), and not from the date on which the order directing issuance of proclamation is passed by the Court. If the date fixed for appearance falls short of thirty clear days from the date of publication, the proclamation becomes defective and unsustainable in law. Similarly, in ***H.P. Nikhil Petrol Pump (supra)*** and ***Sher Mohammad (supra)***, the Courts reiterated that mechanical issuance of proclamation without satisfying the statutory prerequisites vitiates the process, while in ***L. Hirday Naraian (supra)*** the principles regarding strict adherence to statutory procedure affecting personal liberty were emphasized. Further, in ***Inder Mohan Goswami and Another v. State of Uttaranchal and Others***[9] and ***Vikas v. State of Rajasthan***[10] the Hon'ble Supreme Court has held that issuance of non-bailable warrants and proclamation proceedings involve interference with personal liberty and must be exercised with due application of mind and strict adherence to statutory safeguards.

12. Coming to the facts of the case at hand, with respect to the mandatory statutory period of thirty days, the impugned order was pronounced on 08.07.2026 directing the issuance of proclamation for the appearance of the petitioner before the Trial Court on 10.08.2026 at 10:30 a.m. Between 08.07.2026 and 10.08.2026, the total interval from the date of the order itself is thirty-three days. However, the actual proclamation order is issued to publish on 13.07.2026. So, the mandatory requirement of 30 days is not followed. For the proclamation to be valid under Section 84(1) of the BNSS, the written proclamation had to be drafted, signed, dispatched to the executing agency, and

[9] ((2007) 12 SCC 1)
[10] ((2014) 3 SCC 321)

actually published in all the modes prescribed under Section 84(2) of the BNSS on or before 10.07.2026, so as to leave a clear gap of not less than thirty days between the date of publication and 10.08.2026. Moreover, the date fixed for appearance, i.e., 10.08.2026, has already elapsed during the pendency of these proceedings, and admittedly, no declaration pronouncing the petitioner as a proclaimed offender under Section 84(4) of the BNSS has been passed so far.

13. In these circumstances, since the date fixed for appearance (10.08.2026) has already expired without a consequential declaration under Section 84(4) of the BNSS, and in order to ensure strict compliance with the mandatory thirty-day notice requirement from the date of publication under Section 84(1) and (2) of the BNSS, this Court deems it appropriate to set aside the impugned order dated 08.07.2026 and remit the matter to the learned Special Judge for fresh consideration in accordance with law.

14. **In the result,** this Criminal Petition is allowed, and the impugned order dated 08.07.2026 passed in Crl.M.P. No.1482 of 2026 in Crime No.21 of 2024 by the learned Special Judge for SPE & ACB Cases-cum-III Additional District and Sessions Judge, Vijayawada, is hereby set aside. The matter is remanded to the learned Trial Court to consider Crl.M.P. No.1482 of 2026 afresh, after taking into account the material placed by the prosecution, and in the event the learned Trial Court decides to issue a fresh proclamation under Section 84(1) of the BNSS, it shall fix a date of appearance ensuring a clear period of not less than thirty days from the actual date of publication of the proclamation in strict compliance with Section 84(2) of the BNSS.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

Date:27.11.2026
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