APHC010523862026

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

THURSDAY, THE 1st DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 28448 OF 2026

Between:

1. Yarlagadda Ammaji,, W/o. Arun Kumar, age about 45 years, Occ house wife, R/o.H.No.3-108, Ambala Cheruvu, Near Rice Mill, H/o. Kaza West Village, Elamanchili Mandal, West Godavari District - 534260.

...Petitioner

AND

1. THE STATE OF ANDHRA PRADESH, Rep. by its Prl. Secretary, Home Department, Secretariat Buildings, Velagapudi, Guntur District- 522237.

2. The Superintendent of Police, West Godavari District. Bhimavaram, Pin Code 534 201

3. The Circle Inspector of Police, Narasapur Rural Circle, Narasapur, West Godavari District - 534 275

4. The Superindent, Sub-Jail, Bhimvararm West Godavari District. Pin Code 534 201

5. The Superintdent, Government of Children-cum-obeservation Home, Sanivarapu Peta, Eluru, Erst while West Godavari District Presently Eluru District - 534003

6. Sirra Shalini, D/o. Raj Kumar, Student,at present aged 19 years, Arundathipeta, H/o. Kopparru Village, Narsapuram Mandal, West Godavari District - 534275

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased toissue an appropriate writ, order or direction one in the nature of WRIT OF HABEAS CORPUS declaring the arrest and remand and extension of remand of the Petitioner's minor son Yarlagadda Hemanth, S/o. Arun Kumar,shwon as Accused No.1 in Crime No.64/2024 of S.H.O. Narasapur Rural P.S., as well as in sessions case in S.C.No.50/2026 on the file of Special Court for Trial of offences POCSO Judge, Bhimvaram, West Godavari District, as ill-legal and arbitray without Jurisdiction and contrary to the Provisions of Juvenile Justice (Care and Protection of Children) Act 2015, consequently set aside the docket order passed by the Special Court for Trial of offences POCSO Judge, Bhimvaram, West Godavari District by extending the remand period of petitioner's son dated 28-09-2026 passed by the Special Court for Trial of offences POCSO Judge, Bhimvaram, West Godavari District and forther direct the Respondent No.4 forth with setting liberty the child from Judicial custody

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to direct the Respondent No.4 setting liberty of the Petitioner from Sub-Jail, Bhimvaram, West Godavari District and produce before the Respondsen No.5/Superintendent Offi e of the Juvenile Justice care situated at Sanivarapu Peta, Eluru, West Godavari District, during the pendency of main writ Petition and pass such

Counsel for the Petitioner: PECHATHY RANGA RAO

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following order:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 28448 OF 2026

ORDER: *(per Ravi Nath Tilhari, J)*

Heard Sri P. Ranga Rao, learned counsel for the petitioner, Sri J. Krishna Praneeth, learned Assistant Government Pleader appearing for the respondent Nos.1 to 5.

2. This writ petition for Habeas Corpus under Article 226 of the Constitution of India has been filed by the petitioner, the mother of the alleged detenu, accused No.1 in Cr.No.64 of 2026 of the Station House Officer, Narasapur Rural Police Station; in Sessions Case No. S.C.No.50 of 2026, on the file of the Special Court for Trial of Offences, POCSO Judge, Bhimavaram, West Godavari District.

3. The petitioner is also challenging the order of extension of remand dated 28.09.2026 of the Special Court for Trial of Offences, POCSO Judge, Bhimavaram.

4. Learned counsel for the petitioner submited that accused No.1 was minor on the date of the offence. He has referred the copy of complaint/report submitted by the respondent No.6 (Pg.No.35), and contended that the date of the first offence is mentioned as around October, 2022. He also referred to the copy of the identity card issued by

Sri Y. N. College (Autonomous) (Affiliated to Adikavi Nannaya University, Rajamahendravaram), Narsapur, West Godavari District, to the accused No.1 and the copy of the hall ticket (P3, page Nos.25-26) of III B.Sc. and submitted that the date of birth of the accused No.1 is 05.04.2005.

5. He submited that Cr.No.64 of 2026 was registered under Sections 69, 78(1)(l), 351(2) r/w 3(5) BNS vide FIR No.64 of 2026, dated 18.03.2026. The charge sheet has been filed in S.C.No.50 of 2026 on the file of the Special Court of Speedy Trial of Offences, POCSO Judge, Bhimavaram, (in short 'Special Court') adding the provisions of Sections 3 r/w 4, 7 r/w 8 of the POCSO Act. He further submitted that in S.C.No.50 of 2026, a memo was filed raising the question that the accused No.1 was minor, but the memo was returned by the Special Court, observing that a petition should be filed before the Special Court and the memo was returned on 28.09.2026 (Pg.No.23). He submitted that the accused No.1 being minor on the date of the first offence, he should have been sent to the Juvenile Home, and not to the Sub-Jail, Bhimavaram, West Godavari District.

6. Learned Government Pleader submitted that a perusal of the complaint/FIR shows that the offence was committed on different dates also on 21.12.2026 and finally on 08.03.2026, which dates, the accused

No.1 was major. He submitted that the Special Court has granted the opportunity to petitioner/accused No.1, to file the petition, so the petitioner, ought to have filed the petition in the Special Court for determination of the age as per Section 9 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (in short 'the JJ Act, 2015').

7. Learned counsel for the petitioner submitted that even on the memo, the order for determination of the age could be passed and the memo could not be returned. He submitted that when the accused is minor, in view of the judgment of this Court in ***Veligatla Venkata Narayana Vs. The State of Andhra Pradesh, Rep. by its Principal Secretary and 6 others, dated 31.08.2026, passed in W.P.No.24721 of 2026***, the judicial custody of the accused No.1, pursuant to the extended remand order passed by the Special Court, becomes illegal detention.

8. We have considered the aforesaid submissions advanced by the learned counsel for the parties and perused the material on record.

9. There are different dates of commission of the offences. It is not in dispute that on all those dates, the accused No.1 was not minor only on one date, i.e., the offence in the month of October, 2022 the accused has claimed to be minor. Prima facie in view of the contents of the complaint, FIR, the statements recorded by the Police, the question

appears if October, 2022 is the first date of offence? The Cr.No.64 of 2026 was registered under Sections 69, 78(1)(l), 351(2) r/w 3(5) BNS; and while filing the charge sheet, the provisions of Sections 3, 4, 7 & 8 POCSO Act have also been added. The age of the accused No.1 is an issue raised on the date of alleged first offence around October, 2022.

10. We are of the view that once the question of age (minority) was raised or had arisen in S.C.No.50 of 2026, the said question required determination by the Court, however, the memo was returned with a liberty to file the petition. Though the petitioner could have filed the petition, which has not been filed, but the question having arisen by filing the memo, the Court should have proceeded for determination of the age in accordance with law.

11. Such an age determination cannot be made for the first time in the writ petition and particularly when the remedy and recourse can be had to the statutory provisions under the Juvenile Justice (Care and Protection of Children) Act, 2015 before the competent Court. It would be in the fitness of the things that the petitioner approaches the competent Court by filing a petition or by resubmitting the memo which has been returned to the petitioner, upon which the learned Court shall pass the appropriate orders in accordance with law regarding the age determination.

12. In ***Veligatla Venkata Narayana*** (supra), upon which the learned counsel for the petitioner placed reliance, there was no dispute on the date of offence and the date of the birth of the accused. So, the Court came to the conclusion that on the date of offence, the accused was minor.

13. However, in the present case, offences are committed on different dates and any conclusive proof of age or date of birth has not been filed. Copy of the Identity Card and of the hall ticket of III B.Sc., has been annexed to this petition. The petitioner could have filed copy of the requisite certificate as per Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 with this petition at least but, it has not been brought on record.

14. The determination of the age, in terms of the JJ Act, 2015, is yet to be made by the competent Court following the procedure in accordance with law.

15. The Habeas Corpus petition is not maintainable as the alleged detenu/accused No.1 is in the judicial custody pursuant to the order of remand which could not be shown to us to be not valid based on the ground of challenge regarding age of the accused No.1. So prima facie, the detention cannot be deemed an illegal detention.

15. The writ petition is dismissed, with the above observations.

No order as to costs.

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

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RAVI NATH TILHARI,J

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ALAPATI GIRIDHAR,J

Dated: 01.10.2026
SRT

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 28448 OF 2026

Dated: 01.10.2026
SRT