APHC010565162026

**IN THE HIGH COURT OF ANDHRA PRADESH**
**AT AMARAVATI** **[0]**
**(Special Original Jurisdiction)**

FRIDAY, THE 16th DAY OF OCTOBER 2026

**PRESENT**

**CRIMINAL PETITION NO: 9454/2026**

**Between:**

1. MANTENA VENKATA SURYA SRI RAMACHANDRA RAJU, S/O LATE MANTENA SATYANARAYANA RAJU,AGED ABOUT 55 YEARS, OCC BUSINESS,RESIDENT OF 27-V-39, PLOT NO. 9, PEBBLE BEACH PROJECTS NEAR SRIRAMA PANORAMA HILLS, PEDDA RUSHIKONDA, VISAKHAPATNAM RURAL, VISAKHAPATNAM - 530 045.

**...PETITIONER/ACCUSED**

**AND**

1. THE STATE OF ANDHRA PRADESH, Rep. by its Public Prosecutor,High Court of Andhra Pradesh, Amaravati Through S.H.O., III Town P.S.,Visakhapatnam City.

**...RESPONDENT/COMPLAINANT**

**Counsel for the Petitioner/accused:**

1. P PAVAN KUMAR RAO

**Counsel for the Respondent/complainant:**

1. PUBLIC PROSECUTOR

**The Court made the following:**

**ORDER:**

Criminal Petition has been filed under Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS'), seeking to enlarge the Petitioner/Accused No.5 on bail in Crime No.159 of 2026 of II Town Police Station, Visakhapatnam Commissionerate, registered for the alleged offences punishable under Sections 3(1), 4(1), 5(1)(a), 5(1)(c) of the P.I.T.Act.

2. Heard Sri K.S.Murthy, learned Senior Counsel appearing on behalf of Sri P.Pavan Kumar Rao, learned Counsel for the Petitioner/Accused No.5 and Sri A.Sai Rohith, learned Assistant Public Prosecutor. Perused the record.

3. As seen from the record, the Petitioner is arrayed as Accused No.5. The gravamen of the accusation levelled against him is not that he was involved in organising, managing, or facilitating the alleged prostitution activities, but that he was allegedly found present as a customer at the spa centre where the purported illegal activities were being carried on. The learned Assistant Public Prosecutor submits that the prosecution case against the Petitioner rests substantially on the allegation that he had visited the said premises in the capacity of a customer at the time when the alleged acts of prostitution were being conducted therein.

4. Learned Senior Counsel appearing for the Petitioner relied on the judgment of High Court of Orissa in **Bikash Kumar Jain v. State of Odisha**[1], wherein at paragraph No.14 it is held as under:

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[1] 2024 SCC OnLine Ori 826

> *"14. The Law relating to sex work in our country is guided by Immoral Traffic (Prevention) Act, 1956, the said Act originally designed as "Suppression of Immoral Traffic Act". It was subsequently amended in the year 1986. The act of sexual intercourse for consideration is not illegal per se under the Immoral Trafficking (Prevention) Act, 1956. But the intent of legislation is only to ensure that women/girls are not illegally trafficked for the purpose of prostitution, and they are exploited. Soliciting or inducing or seducing for the purpose of prostitution is illegal but prostitution per se is not illegal. Though exception to the judicial trend of exonerating the customers under the Act, 1956 are limited, but on the strength of weak evidence the customer cannot be tried for under the provisions under Sections of Immoral Traffic (Prevention) Act, 1956. It is only when the customer performs his role of procuring the women for another, the offence under Section 370A IPC could be employed into action against the customer. In the instant case none of the sex workers have stated that they have been exploited sexually or abused sexually or they are trafficked. In the absence of material that women are trafficked for the purpose of engaging for sexual exploitation, the offence under Section 370A(2) of IPC will not be attract against the customer. Further, it is for the prosecution to bring on record the evidence that the customers are also having reason inter alia to believe that the victims are trafficked by engaged persons for sexual exploitation. No such material is illuminating."*

5. Learned Senior Counsel further relied on a decision of this Court in **Vasanthavada Raghubabu v. State of A.P.,**[2] wherein at paragraph Nos.34 to 37 it is held as under:

> *"34. Therefore, in the considered view of this court, specific facts and circumstances shall be looked into while determining fastening of liability under Section 370A(2) of the Criminal Procedure Code, 1973. As held supra, a Customer is liable to be prosecuted under Section 370A of the Penal Code, 1860, in the event the facts prima facie disclose that a customer is knowingly or having reason to believe that a person has been trafficked and having such knowledge or reason to believe, engages such person for sexual exploitation in any manner. Unless those ingredients are met, a Customer cannot be prosecuted under Section 370A of the Criminal Procedure Code, 1973. Hence, we are of the view that there exists no conflict.*
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> *35. Therefore, at the cost of repetition, a Customer is liable to be prosecuted under Section 370A of the Penal Code, 1860, in the event the facts prima facie disclose that a customer is knowingly or having reason to believe that a person/minor has been trafficked and having such knowledge or reason to believe, engages such minor or person for sexual exploitation in any manner. However, it is needless to state that, in the event, a customer merely visits the said premises or mere presence of such customer at the spot during any raid which indicates that they were customers who had gone to said spot, and without meeting the essential ingredients under Sections 370A of the Penal*

[2] 2025 SCC OnLine AP 3869

*Code, 1860, does not attract criminal liability under Section 370A of the Penal Code, 1860.*

*36. However, one cannot lose sight over the fact that a Customer cannot be considered as an innocent victim in a flesh trade. Article 23 expressly prohibits Trafficking of Human beings & inter alia also prohibits sexual exploitation. That, Section 370A (2) of the Penal Code, 1860 amply discloses that, whoever, knowingly or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.*

*37. That, in order to prevent abuse of process of any court or to secure the ends of justice, the High Court is amply empowered under Section 482 of the Criminal Procedure Code, 1973, to pass appropriate orders. Therefore, the High Court, if it deems fit, may direct the concerned Magistrate to take cognizance of offence under Section 370A of the Criminal Procedure Code, 1973 in case the facts prima facie disclose that a customer knowingly or having reason to believe that a person has been trafficked and having such knowledge or reason to believe, engages such person for sexual exploitation in any manner, in appropriate cases."*

6. Petitioner was arrested on 13.10.2026. He has been in the judicial custody for the past three days. Petitioner is permanent resident of Visakhapatnam. He has got fixed abode. If the Petitioner is enlarged on bail, subject to stringent conditions, there is no likelihood of him interfering with the investigation, threatening the witnesses, or tampering with the prosecution evidence.

7. Having regard to the facts and circumstances of the case, the nature and gravity of allegations levelled against the Petitioner/Accused No.5, this Court is inclined to enlarge the Petitioner/Accused No.5 on bail with some stringent conditions.

8. In the result, the Criminal Petition is allowed with the following stringent conditions:

i. i. The Petitioner/Accused No.5 shall be enlarged on bail subject to their executing a bond for a sum

of Rs.10,000/- (Rupees Ten Thousand only) with two sureties for the like sum each to the satisfaction of the learned V Additional Chief Judicial Magistrate, Visakhapatnam.

ii. The Petitioner/Accused No.5 shall appear before the Station House Officer concerned, on every Saturday in between 10:00 am and 05:00 pm, till filing of the Charge Sheet.

iii. The Petitioner/Accused No.5 shall cooperate with the Investigating Officer in further investigation of the case and shall make himself available for interrogation by the Investigating Officer as and when required.

iv. The Petitioner/Accused No.5 shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court.

v. The Petitioner/Accused No.5 shall not leave the limits of the State of Andhra Pradesh without express permission from the Station House Officer concerned.

vi. The Petitioner/Accused No.5 shall surrender his passport, if any, to the Investigating Officer. If he claims that he do not have passport, he shall submit affidavit to that effect before the Investigating Officer.

**DR. Y. LAKSHMANA RAO, J**

Date: 16.10.2026
Note: Issue C.C. by today
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