

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY APPELLATE JURISDICTION

SPECIAL LEAVE PETITION(CRL.) NO.5218/2025

P.V. MIDHUN REDDY @ PEDDIREDDI VENKATA MIDHUN REDDY Petitioner(s)

VERSUS

THE STATE OF ANDHRA PRADESH

Respondent(s)

O R D E R

1. The petitioner before us is a sitting Member of Parliament. He belongs to a regional political party of the State of Andhra Pradesh by name YSRCP. He has been denied anticipatory bail by the High Court in connection with Crime No.21 of 2024 registered at the C.I.D., Police Station, Andhra Pradesh, Mangalagiri, for the offence punishable under Sections 420, 409 & 120-B respectively of the Indian Penal Code, 1860 (now Sections 318/4, 316/5 & 61/2 respectively of the Bharatiya Nyaya Sanhita, 2023) (for short the, "BNS", 2023).

2. It appears from the materials on record that one individual by name Mr. Y. Venkateswar Rao Srinivas, a resident of Vijaywada lodged a complaint in writing addressed to the Principal Secretary to Government, Revenue (Excise) Department, Amaravathi, Andhra Pradesh dated 26-8-2024 stating as under:-

"To

*Principal Secretary to Govt,
Revenue (Excise) Dept,
Amaravathi, AP.*

Sir,

Sub: Request to enquire and take action against the irregularities happened during 2019 to 2024 In APSBCL, Andhra Pradesh - Regarding.

I wish to bring to your notice, certain irregularities that happened in APSBCL, Andhra Pradesh during the period October 2019 and March 2024 in which thousands of crores of public money was plundered by the then ruling party leaders. In fact, they pressurized some of the Excise and APSBCL: officials and got the OFS (Order for Supply) issued by violating the conditions mentioned in the Rate Contract Agreement.

The classic modus Operandi starts with killing of the existing popular brands, who do not fail in their line and who do not pay Kickbacks, by refusing to take their stock into the shops owned by

APSBCL. Instead, they allowed new spurious brands of liquor and promoted liquor sales for new brands by taking huge money from the Distilleries and Suppliers and disallowed premium and old brands into AP. This famous modus Operandi is called Brand Killing and New, Brand Promotion. Thus, every month, they used to sell around 30 Lakh cases of liquor for which the then ruling party leaders used to get 150 Rs to 250 Rs per case. Thus, for every month, they amassed about 70-80 crores per month.

As per Rate contract agreement, APSBCL is supposed to buy liquor from distilleries by giving OFS as per formula. The formula is that they shall buy stocks worth (110% of average sales during the preceding two months minus available stock on hand minus OFS to be executed). But, on the instructions of the then ruling party leaders, APSBCL refused to take stocks from some popular brands like Mc Dowells Whisky, Mc Dowells Brandy, Honey Bee Brandy, Bag Piper Whisky, Royal Stag, Imperial Blue etc for not paying kickbacks.

On the contrary, they started promoting new spurious liquor brands like Ocean Blue whisky, Daru House Brandy, Supreme Blend Whisky, Brilliant Blend Whisky, 9 Sea Horse Whisky, Andhra Gold Whisky, Southern Spice Whisky, Good Friend Whisky etc and started giving OFSs for lakhs of liquor cases violating the formula that they shall not procure 10000 cases at the first Instance. While fixing the basic price of new brand, the then ruling party leaders used to Influence APSBCL. Further, the then ruling party leaders got partnership in SPY distilleries and influenced to increase basic price of the brands namely Galaxy Brandy, Champion Whisky, HD Whisky and issued more number of Purchase Orders (POS) violating the conditions mentioned in Rate Contract.

Further, the then ruling party leaders established a hawala kind of secret money transection system by using some of his

henchmen. This scam is unheard and is very much bigger than Delhi Liquor Scam. Hence, I request you to enquire into the matter and take action against those persons involved in the liquor scam."

3. In view of the aforesaid complaint, ultimately the First Information Report came to be registered at the CID, Police Station, referred to above.

4. The petitioner apprehended arrest in connection with the First Information Report, referred to above, mainly because of two things (i) statement recorded under Section 164 of the Code of Criminal Procedure, 1973 of one Mr. Satyaprasad, who was a Special Officer in the earlier Government and (ii) statement recorded under Section 161 of CrPC of one Mr. Vasudeva Reddy, who was Managing Director of APSBCL in the earlier Government. The petitioner somehow felt that these statements might have incriminated him in some manner or the other and in such circumstances, he prayed for anticipatory bail. The petitioner directly approached the High Court praying for anticipatory bail which came to be declined.

5. We take notice of the fact that the High Court essentially declined to grant anticipatory bail as prayed for on the ground that the very apprehension expressed by the petitioner that he was likely to be arrested was not well-founded because there are no accusations made against the petitioner in the FIR. Apart from this, according to the High Court, the investigation is at a very nascent stage and thirdly the Investigating Officer is yet to verify the credibility of the information.

6. In such circumstances, the High Court observed in Para 51 of

its impugned order as under:-

"51. As evident from the record, although no accusations have been made against the petitioner at this stage, it is clear that an investigation is underway in Cr.No.21 of 2024 based on the allegation that the exchequer has suffered a loss of several thousand crores of rupees. This court views that the petition is not maintainable as the investigation is still at a nascent stage, the investigation officer has yet to verify the credibility of the information, and there is no apprehension of arrest at present".

7. Thus, what we have been able to understand is that the High Court had no occasion to go into the merits of the matter. The High Court never looked into any material *prima facie* incriminating the petitioner in the alleged crime because there was none existing on the date, the High Court heard the matter.

8. We heard Dr. Abhishek Manu Singhvi and Mr. Ranjit Kumar, the learned Senior counsel appearing for the petitioner and on the other hand, Mr. Mukul Rohatgi, the learned Senior counsel appearing for the State of Andhra Pradesh.

9. We are informed that the observations contained in para 51 of the impugned order, referred to above, fell from the High Court in view of the specific stance of the State before the High Court that they had no intention to arrest the petitioner for the present.

10. Be that as it may, we do not find any fault with the High Court so far as the observations made in Para 51 are concerned.

11. However, today according to Mr. Rohatgi, there is *prima facie* material on record to indicate the involvement of the petitioner - herein in the alleged offence and, therefore, he would submit that no case is made out for grant of anticipatory bail to the petitioner. Mr. Rohatgi further pointed out that after some

investigation, the petitioner has now been arrayed as one of the accused persons in the First Information Report.

12. Section 35 of the Bharatiya Nagrik Suraksha Sanhita, 2023 provides for arrest by a police officer without an order from a Magistrate and without a warrant. The Section gives discretion to the police officer who may without an order from a Magistrate and even without a warrant, arrest any person in the situations enumerated in that Section. It is open to him in the course of investigation to arrest any person who has been concerned with any cognizable offence or against whom reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned. Obviously, he is not expected to act in a mechanical manner and in all cases to arrest the accused as soon as the report is lodged. In appropriate cases, after some investigation, the Investigating Officer may make up his mind as to whether it is necessary to arrest the accused person. At that stage, the Court perhaps has no role to play.

13. Since the power is discretionary, a police officer is not always bound to arrest an accused even if the allegation against him is of having committed a cognizable offence.

14. Since an arrest is in the nature of an encroachment on the liberty of the subject and does affect the reputation and status of the citizen, the power has to be cautiously exercised. It depends *inter alia* upon the nature of the offence alleged and the type of persons who are accused of having committed the cognizable offence. Obviously, the power has to be exercised with caution and circumspection.

15. Since the State has made its stance very clear today before us that it wants to arrest the petitioner, it could be said that the petitioner is taken by surprise because the High Court denied anticipatory bail on the premise that the very apprehension of arrest expressed by him was not well-founded.

16. Mr. Rohatgi, the learned Senior counsel appearing for the State would submit that this Court may look into the material now collected by the Investigating Officer *prima facie* indicating the involvement of the petitioner in the alleged offence.

17. We are of the view, more particularly keeping in mind the tenor of the impugned order passed by the High Court, that we should not look into the material placed on record for the first time and take a call. We should ask the High Court to look into the materials which according to the State, *prima facie* incriminates the petitioner. We would like to have the benefit of the view that the High Court may take in the matter.

18. In such circumstances, referred to above, we set aside the impugned order passed by the High Court and remit the matter to the High Court for fresh consideration of the plea of the petitioner for grant of anticipatory bail. However, this time the High Court may look into the materials that may be shown to *prima facie* indicate the involvement of the petitioner, if any, in the alleged offence. The issue of apprehension of arrest being genuine or not now pales into insignificance. The High Court shall now decide the plea of anticipatory bail afresh keeping in mind the well-settled principles of grant of anticipatory bail, of course, looking into the materials which the State may show to the High Court. It is

for the High Court to now consider whether there is any *prima facie* case made out against the petitioner. Whether the action sought to be taken by the State is on account of political vendetta? All other grounds germane to the consideration of grant of anticipatory bail.

19. We clarify that we have not expressed any opinion in so far as the merit of the matter is concerned.

20. We have made ourselves clear that we would not like to look into the material which has now been brought on record by the State.

21. The High Court shall fix one particular date for hearing. Both the sides shall be heard. If the petitioner wants to file reply to some affidavit that may be filed by the State, the High Court may consider granting such opportunity.

22. Mr. Rohatgi, with his usual fairness, on his own, and also upon instructions made a statement that till the High Court decides afresh, the petitioner shall not be arrested.

23. However, even while the plea of anticipatory bail is being looked into by the High Court afresh, if the State wants to interrogate, the petitioner should join the investigation and fully cooperate with the investigation agency.

24. Let the High Court look into the matter afresh within a period of four weeks from the date of receipt of the writ of this order.

25. With the aforesaid, the Special Leave Petition stands disposed of.

26. Pending applications, if any, shall also stand disposed of.

.....J
(J.B. PARDIWALA)

.....J
(R. MAHADEVAN)

NEW DELHI
13TH MAY, 2025.

ITEM NO.6

COURT NO.13
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SECTION II

Petition for Special Leave to Appeal (Crl.) No.5218/2025

[Arising out of impugned final judgment and order dated 03-04-2025 in CRLP No. 2904/2025 passed by the High Court of Andhra Pradesh at Amravati]

P.V. MIDHUN REDDY @ PEDDIREDDI VENKATA MIDHUN REDDY Petitioner(s)
VERSUS

THE STATE OF ANDHRA PRADESH Respondent(s)

(IA No. 87126/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 13-05-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) :

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Ranjit Kumar, Sr. Adv.
Mr. Mahfooz Ahsan Nazki, AOR
Mr. Sidharth Seem, Adv.
Mr. Meeran Maqbool, Adv.
Mr. Vivek Rajan D.b., Adv.

For Respondent(s) :

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Siddharth Aggarwal, Sr. Adv.
Mr. Guntur Pramod Kumar, AOR
Ms. Prerna Singh, Adv.
Mr. Samarth Krishan Luthra, Adv.
Mr. Udai Dedhiya, Adv.
Mr. Dhruv Yadav, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Exemption Application is allowed.
2. The Special Leave Petition is disposed of in terms of the signed order.
3. Pending applications, if any, shall also stand disposed of.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(Signed Order is placed on the file)

(POOJA SHARMA)
COURT MASTER (NSH)