

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

TUESDAY ,THE THIRTY FIRST DAY OF DECEMBER

TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CRIMINAL PETITION NO: 8624 OF 2024

Between:

Kilari Venkata Rosaiah, S/o.K.Koteswara Rao, R/o. 13-14-545, Lakshmi Narayana Nilayam, 1st Lane, Krishna Nagar, Pattabhipuram, Guntur Guntur District.

Petitioner/Accused No.2

AND

The State of Andhra Pradesh, Represented by its Public Prosecutor, High Court of Andhra Pradesh at Amaravati High Court Buildings at Nelapadu, Amaravati, Guntur District

Respondent

Petition under Section 482 of Cr.P.C is filed praying that in the circumstances stated in the affidavit filed in support of the Criminal Petition, the High Court may be pleased to enlarge the Petitioner/Accused No.2 on bail in the event of his arrest in FIR.No.10 of 2020 dt.22.01.2020 on the file of Ponnur Rural Police Station, Guntur District .

IA NO: 1 OF 2024

Petition under Section 482 of Cr.P.C. R/w.528 of BNSS is filed praying that in the circumstances stated in the affidavit filed in support of the petition,

the High Court may be pleased to grant the petitioner interim protection from arrest in FIR.No.10 of 2020 dt.22.01.2020 on the file of Ponnur Rural Police Station, Guntur District, pending disposal of the Anticipatory Bail Petition.

The petition/Appeal coming on for hearing, upon perusing the Petition and the grounds filed in support thereof and upon hearing the arguments of Sri V VINOD K REDDY Advocate for the Petitioner, PUBLIC PROSECUTOR (AP) for the Respondent and the Court made the following.

**ORDER:-**

The Criminal Petition is filed on behalf of the petitioner/A2 to grant anticipatory bail in connection with Crime No.10 of 2020 of Ponnur Rural Police Station, Guntur District, registered for the offences punishable under Sections 120B, 153A, 153, 354D, 354A(3), 469, 471, 505(2), 509 read with 34 IPC and Sections 67 and 67A of the I.T. Act.

2. Brief facts of the case are that on 22.01.2020, the defacto complainant filed a report before the police stating that on 19.01.2020 there was a newspaper clipping in a daily newspaper with certain implicit allegations against her daughter. Pursuant to the said clipping, certain posts were allegedly posted and forwarded in some whatsapp groups & Social Media Platforms along with personal pictures of his daughter.

3. Heard. Perused the record.

4. A perusal of the material on record goes to show that the petitioner herein is the admin of a whatsapp group. A1 and others posted some messages in the said group and shared them with others with all the false news and making that viral. By virtue of the same, the present complaint has been filed against the accused.

5. Sri O.Manohar Reddy, learned senior counsel appearing on behalf of the petitioner submits that the petitioner is only admin of the whatsapp group and he is nothing to do with the messages that have been posted in the whatsapp group.



6. In support of his case, learned senior counsel appearing on behalf of the petitioner relied on a decision of the High Court of Bombay in KISHOR S/O. CHINTAMAN TARONE Vs. THE STATE OF MAHARASHTRA, wherein paragraph No.8 reads as follows:

*"The crux of the issue involved is whether an administrator of Whatsapp group can be held criminally liable for objectionable post of its member for committing offences punishable under sections 354-A(1)(iv), 509 and 107 of the Indian Penal Code and section 67 of the Information Technology Act, 2000. To adjudicate the said issue, it is necessary to understand functioning of Whatsapp messaging service. Whatsapp is an instant messaging platform which can be used for mass-communication by opting to create a chat group. A chat group is a feature on Whatsapp which allows joint participation of members of the chat group. Group Administrators, as they are generally called, are the ones, who create the group by adding or deleting the members to the same. Every chat group has one or more group administrators, who control participation of members of the group by deleting or adding members of the group. A group administrator has limited power of removing a member of the group or adding other members of the group. Once the group is created, the functioning of the administrator and that of the members is at par with each other, except the power of adding or deleting members to the group. The Administrator of a Whatsapp group does not have power to regulate, moderate or censor the content before it is posted on the group. But, if a member of the Whatsapp group posts any content, which is actionable under law, such person can be held liable under relevant provisions of law. In the absence of specific penal provision creating vicarious liability, an administrator of a Whatsapp group cannot be held liable for objectionable content posted by a member of a group. A group administrator cannot be held vicariously liable for an act of member of the group, who posts objectionable content, unless it is shown that there*

*was common intention or pre-arranged plan acting in concert pursuant to such plan by such member of a Whatsapp group and the administrator. Common intention cannot be established in a case of Whatsapp service user merely acting as a group administrator. When a person creates a Whatsapp group, he cannot be expected to presume or to have advance knowledge of the criminal acts of the member of the group. We are not examining the issue of liability of an administrator if he is a creator of objectionable content, as it is not arising in the facts of the present case."*

7. A perusal of the aforesaid decision goes to show that the administrator of a whatsapp group cannot regulate, moderate or censor the content before the same is posted on the group.

8. There is absolutely no provision which shows that the admin of a whatsapp group is liable. In the absence of any provision to that extent, it may not be said that the criminal intent entertained by one member of the whatsapp group will be shared by the petitioner also.

9. On the other hand, learned Public Prosecutor and the learned counsel appearing on behalf of the defacto complainant in one voice strenuously contended that the said messages have been posted by other accused with the active instigation of the petitioner herein. According to them, the petitioner was instrumental in bringing false news along with others. They further submitted that petitioner herein induced them to post the messages which have gone viral.

10. A perusal of the material on record goes to show that the investigating agency attributed an accusation as against the petitioner that he was instrumental in making others to post the



messages. The said information is based on the confessional statement of the co-accused. It is needless to mention here that the confession of the co-accused is not admissible in evidence and it is relevant during the course of trial when there is corroboration to the said confessional statement. Therefore, at this stage, the same cannot be taken into account.

11. In view of above facts and circumstances of the case, this Court is inclined to consider request of petitioner for grant of anticipatory bail.

12. Accordingly, in the event of his arrest, petitioner/A2 shall be released on bail on his executing a personal bond for a sum of Rs.25,000/- (Rupees twenty five thousand only), with two sureties each for the like sum each to the satisfaction of the arresting police officials, and also on condition that the petitioner shall make himself available for investigation as and when required and that he shall not cause any threat, inducement or promise to the prosecution witnesses. The petitioner shall appear before the Station House Officer concerned once in a week i.e. on every Sunday between 10.00 a.m. and 01.00 p.m., till filing of the charge sheet.

13. Accordingly, the Criminal Petition is **allowed**.

SD/- M.SRINIVAS  
ASSISTANT REGISTRAR

SECTION OFFICER

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The Addl. Junior Civil Judge, Ponnur.
2. The S.H.O., Rural Police Station, Guntur District.
3. One CC to SRI. V VINOD K REDDY Advocate [OPUC]
4. Two CCs to Public Prosecutor (AP) High Court of A.P., Amaravati [OUT].
5. **One spare copy**

**HIGH COURT**

**SRK,J**

**DATED:31/12/2024**

**BAIL ORDER**

**CRLP.No.8624 of 2024**

**ALLOWED**

