
(2025) 10 AP CK 1102

In the Andhra Pradesh High Court, Amaravati

Case No : Criminal Petition No: 10039 Of 2025

Shaik Baba Fakroddinu Alias Godi Baba And Others

APPELLANT

Vs

State Of Andhra Pradesh

RESPONDENT

Date of Decision : 03-10-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 482
Andhra Pradesh Prohibition Act, 1995 — Section 7(a), 8(b)(ii), 8(e)
Andhra Pradesh Lotteries Act, 1998 — Section 4(c)

Citation : (2025) 10 AP CK 1102

Hon'ble Judges : Tuhin Kumar Gedela, J

Bench : Single Bench

Advocate : Dheera Kanishka

Final Decision : Allowed

Judgement

Tuhin Kumar Gedela, J

1. The present Criminal Petition, under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is filed by the petitioners-accused Nos. 10 and 11 seeking their release on bail in the event of arrest in Crime No. 326 of 2025 of Kadiri Town Police Station, Sri Sathya Sai District, registered for the offences punishable under Section 7 (a) read with Section 8 (e) and Section 8 (b) (ii) of the Andhra Pradesh Prohibition and Excise Act and Section 4 (c) of Andhra Pradesh Lotteries Act, 1998.

2. Heard,

Sri Dheera Kanishka, learned counsel appearing for the petitioners-accused Nos. 10 and 11, and learned Special Assistant Public Prosecutor appearing for the respondent-State.

3. Case of the prosecution is that on 13-09-2025 at about 11 a.m., near Kutagulla Railway Gate, Kandikunta Narayanamma Colony, Kadiri Town, the Sub Inspector of Police, Kadiri Town Police Station, along with his staff and mediators,

on credible information, found accused Nos. 1 to 5 while they were selling I.D. arrack and lottery tickets without any valid licence or permission. Thereafter, the police seized 16 liters of I.D. arrack, 47 lottery tickets and five cellphones from their possession, arrested accused Nos. 1 to 5 and remanded them to judicial custody. It is the further case of prosecution that accused Nos. 1 to 5 confessed the involvement of accused Nos. 6 to 10 in the case and accused No. 11 is the person who supplied lottery tickets to accused Nos. 1 to 10.

4. Learned counsel for the petitioners-accused Nos. 10 and 11 contends that the present petitioners are merely shown as accused basing on the confessional statements of accused Nos. 1 to 5 which is contrary to law. This proposition of law is well settled and the learned counsel submits that the said proposition is reflected in Ground No. 2 which states that confession of a co-accused made before police has no evidentiary value and cannot form the sole basis for prosecution against another accused. He places reliance on the judgments of the Hon'ble Supreme Court in *Kashmira Singh Vs. State of M.P.* AIR 1952 SC 159 and *Haricharan Kurmi Vs. State of Bihar* AIR 1964 SC 1184 which were re-affirmed in *State (NCT of Delhi) Vs. Navjot Sandhu alias afsan guru* 2005 (11) SCC 600. In the said judgment, the Hon'ble Apex Court at paragraph No.40 held as under:

"After referring to these decisions, a Constitution Bench of this Court in *Hari Charan Kurmi v. State of Bihar* further clarified the legal position thus : (SCR pp. 632-33)

"[1]n dealing with a case against an accused person, the court cannot start with the confession of a co-accused person; it must begin with other evidence adduced by the prosecution and after it has formed its opinion with regard to the quality and effect of the said evidence, then it is permissible to turn to the confession in order to receive assurance to the conclusion of guilt which the judicial mind is about to reach on the said other evidence."

(emphasis supplied)"

5. Learned Special Assistant Public Prosecutor, on the other hand, vehemently opposed the criminal petition contending that if the petitioners are released on anticipatory bail, it would be difficult for the State to procure their presence and proceed with investigation.

6. Though there is substance in the contention of learned Assistant Public Prosecutor, it is also well settled that the law cannot be deviated which is settled way back by the Hon'ble Supreme Court that confessional statements of the co-accused cannot form a basis to bring home the guilt of the other accused.

7. This Court, after hearing both sides, feels that balance of convenience is in favour of the petitioners-accused Nos. 10 and 11 and inclines to grant anticipatory bail to them with certain conditions.

8 The petitioners-accused Nos. 10 and 11 are therefore directed to surrender before the Station House Officer, Kadiri Town Police Station, Sri Sathya Sai

District, within a period of ten days from today. On such surrender, the petitioners-accused Nos. 10 and 11 are ordered to be released on bail on their executing each a personal bond for Rs.20,000/-(Rupees twenty thousand only) with two sureties for the like sum each to the satisfaction of the Station House Officer, Kadiri Town Police Station. After release, the petitioners-accused Nos. 10 and 11 are directed to appear before the Station House Officer, Kadiri Town Police Station, once in a week i.e. on every Sunday between 10.00 a.m. and 1.00 p.m. till filing of charge sheet. The petitioners-accused Nos. 10 and 11 are also directed to cooperate with the investigating agency and not to tamper with the prosecution witnesses.

9. Accordingly, the Criminal Petition is allowed.