



REPORTABLE
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). **OF 2026**
(Arising out of SLP (Criminal) No(s).16536 of 2025)

POGADADABNDA REVATHI & ANR.
.... **APPELLANT(S)**

VERSUS

THE STATE OF TELANGANARESPONDENT(S)

J U D G M E N T

Mehta, J.

- 1.** Heard.
- 2.** Leave granted.
- 3.** The instant appeal by special leave is directed against the order dated 13th October, 2025 passed by the High Court of Telangana at Hyderabad¹ in Criminal Petition No.13071 of 2025.
- 4.** Brief facts relevant and essential for disposal of the appeal are noted hereinbelow.

4.1 An FIR bearing No. 527 of 2025 was registered on 10th March, 2025 at Cyber Crimes Police Station,

¹ Hereinafter referred to as 'High Court'.

Hyderabad against unknown persons under Section 67 of the Information Technology Act, 2000 and Sections 352 and 353(2) of the Bhartiya Nyaya Sanhita, 2023 [Corresponding Sections 504 and 505 (2) of the Indian Penal Code, 1860] on the basis of a complaint filed by one Mr. S. Kailash.

4.2 The appellants² herein, namely, Pogadadabnda Revathi and Bandi Sandhya were arrested in connection with the aforesaid FIR and were presented before the learned XII Addl. Chief Judicial Magistrate, Hyderabad³ on 12th March, 2025 and were remanded to judicial custody till 26th March, 2025 by an order of even date.

4.3 On 13th March, 2025, the Inspector of Police, Cyber Crimes Police Station, Hyderabad moved an application before the learned Magistrate seeking police custody of the accused-appellants for a period of five days. The said application was rejected *vide* order dated 17th March, 2025 and the following reasons were assigned for declining police custody: -

“6. It is well settled law that the magistrate will have to satisfy himself that the presence of the accused in

² Hereinafter, being referred to as ‘accused-appellants’.

³ Hereinafter, being referred to as ‘learned Magistrate’.

police custody is whether absolutely necessary. The Court shall look into the evidence and material collected by the investigating agency. Remand to police custody should not be granted to collect the material and evidence. In case, where it is impossible for the police authorities to go further in the investigation and in those cases only remand to the police custody is justified by law.

7. In the present case, admittedly the present investigating officer examined the material witnesses and recorded the confession panchanama of the A1 & A2 and also seized incriminating material i.e. One Dell Laptop, Asus Laptop, Two Segate Hard Disk, One-Pulse Media Logo, TP Link Wifi Router and 7 CPU's under cover of seizure panchanama. In addition to it the laptop, mobile phone of husband of A1 are also seized by police. Under these facts and circumstances, this court does not find any tenable grounds to grant police custody of the accused herein for the reasons assigned in the requisition and it appears that the presence of the respondents is not required for police custody to proceed with further. The petition is devoid of merits and liable to be dismissed."

4.4 It is pertinent to mention here that the learned Magistrate *vide* a separate order of even date *i.e.* 17th March, 2025 enlarged the accused-appellants on bail.

4.5 Being aggrieved by the order of the learned Magistrate rejecting the request for grant of police custody, the respondent, the State of Telangana

through the Inspector of Police, preferred a revision petition before the learned Sessions Judge at Nampally, Hyderabad, who *vide* order dated 26th September, 2025 allowed the same and directed that the accused-appellants be remanded to police custody from 6th October, 2025 to 8th October, 2025. However, the said order was subsequently modified, altering the period of custody from 13th October, 2025 to 15th October, 2025.

4.6 It is imperative to state here that in the order granting police custody of the accused-appellants, the learned Sessions Judge has completely glossed over the fact that the accused-appellants had already been granted regular bail by the learned Magistrate *vide* a separate order dated 17th March, 2025.

4.7 Be that as it may, aggrieved by the order of learned Sessions Judge, the accused-appellants assailed the same before the High Court by way of a criminal petition. The High Court, *vide* order dated 13th October, 2025, dismissed the said petition. The aforesaid order of the High Court rejecting the criminal petition forms the subject matter of challenge in the present appeal by special leave.

5. Learned Counsel representing the accused-appellants urged that the learned Magistrate rejected the application filed by the investigating officer on 17th March, 2025, seeking police custody of the accused-appellants by assigning detailed reasons and the accused-appellants were granted regular bail on the very same day. He urged that neither the Sessions Court nor the High Court, applied mind to the fact that the police custody remand had been denied by the learned Magistrate by assigning cogent reasons and the accused-appellants had also been released on bail. Thus, directing police custody of the accused-appellants nearly 7 months after they had been released on bail and that too, without due appreciation of the reasons assigned in the order dated 17th March, 2025 passed by the learned Magistrate declining police custody, is nothing but a gross abuse of the process of law. It was submitted that so long as the order granting bail remains in force, no direction granting police custody could have been lawfully issued.

6. *Per contra*, learned counsel appearing for the respondent-State vehemently and fervently supported the impugned order and submitted that

the same was passed strictly in accordance with law and does not warrant interference.

7. We have heard and considered the submissions advanced at bar and have gone through the impugned order.

8. Learned Single Judge of the High Court while rejecting the Criminal Petition filed by the appellant took note of the provisions of Section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [Corresponding Section 167 of the Code of Criminal Procedure, 1973] which provides that police custody for a term not exceeding fifteen days in the whole or in parts, may be granted by the Magistrate during the initial forty days or sixty days, as the case may be, out of the total detention period of sixty days or ninety days.

9. In the present case, since none of the offences are punishable with death, imprisonment for life or imprisonment for a term of ten years or more, the statutory period applicable for grant of police custody would be forty days.

10. Learned Magistrate, while declining the application for police custody, took note of the factum of extensive investigation already having been carried

out and the consequential recoveries of incriminating materials *viz.* One Dell Laptop, Asus Laptop, Two Segate Hard Disk, One Pulse Media Logo, TP Link Wifi Router and 7 CPUs from the accused-appellants. In addition to the aforesaid recoveries, laptop and mobile phone of appellant No. 1's husband were also seized.

11. Needless to say, the discretion whether or not to grant police custody remand is vested exclusively with the Magistrate and once the Magistrate exercises such discretion accepting or declining the prayer for police custody, by assigning reasons, such order should ordinarily not be interfered with by the revisional forum unless gross perversity is shown in the order of the Magistrate.

12. We are afraid that the learned Sessions Judge, while accepting the revision, has completely overlooked the order passed by the learned Magistrate and went on to record that further recoveries were to be made from the accused-appellants and their detailed confessional statements had to be recorded and for the said reasons, police custody remand was essential.

13. We find both the reasons to be unacceptable and perverse on the face of record in view of the fact that the order of the learned Magistrate specifically refers to the recoveries of the subject devices used for posting the offensive messages having been effected and extensive interrogation having been carried out from the accused-appellants.

14. In this background, we are of the firm view that the learned Sessions Judge, while exercising revisional jurisdiction ought not to have interfered in the well-reasoned order passed by the learned Magistrate. Rather, we find that the learned Sessions Judge did not even advert to the order of the learned Magistrate in the correct perspective while deciding the revision.

15. The order granting police custody was passed by the revisional Court after more than 6 months from the date on which police custody was declined by the learned Magistrate and the accused-appellants were released on bail. Thus, the revisional Court as well as the High Court clearly seem to have fallen into error while directing the grant of police custody of the accused-appellants for investigation in connection with the aforesaid FIR.

16. It is pertinent to mention that the accused-appellants had already been enlarged on bail. Granting police custody for a period of three days would necessarily require the accused-appellants to be taken back into custody and curtailing their liberty for that period of 3 days, which would, in effect, tantamount to cancellation of bail in an indirect manner, without adherence to the settled legal parameters governing cancellation of bail.

17. It is a settled position of law that where the investigating agency seeks police remand of an accused who has already been enlarged on bail, the proper and legally permissible course is to first seek cancellation of bail in accordance with law and only thereafter apply for police custody. The scheme of criminal procedure does not countenance the grant of police remand of an accused who continues to enjoy the protection of bail, as such a course would effectively defeat and nullify the order granting bail.

18. In this regard we may refer to ***Satyajit Ballubhai Desai v. State of Gujarat*** reported in **(2014) 14 SCC 434** wherein this Court observed as follows: -

“19. Be that as it may, the fact remains that the learned Magistrate as also the High Court appear to have adopted a casual or a mechanical approach permitting police remand of the appellants without scrutinising the reasons, ignoring the fact that the appellants had already been enlarged on bail by the High Court and the dispute with the complainant Surjaben who had lodged the complaint had already been settled. Thus, the existing facts and circumstance prima facie were clearly not so grave or extraordinary justifying police remand which could have been overlooked by the High Court even though it was for three days only as it was bound to have ramifications not only affecting the liberty of the person who was already granted bail but also the Magistrate nullifying the order of the High Court granting bail, even if it was for a period of three days only.

20. In fact, when the accused had been enlarged on bail by the High Court, it was all the more essential initially for the police authorities and thereafter by the Magistrate to disclose and assign convincing reasons why investigation could not proceed further without seeking police remand of the accused and in case police remand was sought on any ground of interference with the investigation in any manner alleging influencing the witnesses or tampering with the evidence in any manner, straightaway it could have been a case for cancellation of bail of the accused and the Magistrate could have directed the police authorities to approach the High Court seeking cancellation or any other appropriate direction.

21. What is sought to be emphasised is that the disclosure of reasons by the Magistrate allowing

police remand especially in a matter when the accused has been enlarged on bail by the High Court is all the more essential and cannot be permitted in the absence of a valid and sufficiently weighty reason seeking such custody, as it clearly affects the liberty of an individual who has been enlarged on bail by a court of competent jurisdiction.”

(Emphasis supplied)

19. The principle enunciated in the aforesaid decision makes it abundantly clear that when an accused is enlarged on bail, police custody cannot be granted so long as the order of bail continues to operate. In the present case, the accused-appellants stand enlarged on bail by effect of the order dated 17th March, 2025 passed by the learned Magistrate, which has not been challenged before any forum and consequently the grant of police custody in the face of an existing bail order would amount to indirect cancellation of bail.

20. In view of the above discussion, the impugned orders dated 13th October, 2025 passed by the High Court and 26th September, 2025, passed by learned Sessions Judge do not stand to scrutiny and are hereby set aside.

21. The appeal is allowed accordingly.

22. Pending application(s), if any, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
JANUARY 09, 2026.