

2026 LiveLaw (SC) 722

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

VIKRAM NATH; J., SANDEEP MEHTA; J.

SLP(Crl.) No(s). 12344 of 2026; JULY 27, 2026

THE STATE OF ANDHRA PRADESH *versus* SUDA SURESH VEERA VENKATA NAGA RAJU

Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) – Section 187 – Police Custody and Remand – Extent of Window for Police Custody – Absolute Outer Limit Cannot Be Imposed By Courts – The Supreme Court observed that Section 187(2) and (3) of the BNSS enlarges the window during which police custody (not exceeding 15 days in the aggregate) may be sought, allowing it to be taken in parts during the first 40 or 60 days of detention - This legislative change was specifically intended to address situations where fresh facts or discoveries emerge later in the investigation - imposing an absolute, non-extendable outer limit on custody by courts runs counter to the statutory object of the provision. [Paras 20-24]

Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) – Section 38 – Right of Arrested Person to Meet an Advocate During Interrogation – Ongoing Presence of Counsel Not Mandated – The Supreme Court held that a plain reading of Section 38 of the BNSS guarantees the right of an accused to *meet* an advocate of their choice during interrogation, but it does not contemplate the continuous, ongoing physical presence of the advocate for the entirety of each interrogation session - While the court can regulate the manner and distance of the advocate's presence to prevent interference, an unqualified entitlement to continuous presence travels beyond the scope of Section 38. [Paras 22-24]

Criminal Procedure – Custodial Interrogation – Audio-Visual Safeguards and Videography During Transit – While affirming that continuous audio-visual recording and CCTV coverage during actual questioning sessions are salutary safeguards to protect both the accused and the investigating agency, the Supreme Court clarified that an inflexible mandate to continuously videograph every minute of road transit (e.g., over long distances between jail and the interrogation centre) is unworkable in practice due to logistical limitations like signal loss, battery, and security considerations - The requirement stands satisfied by recording actual interrogation sessions and discovery/recovery proceedings. [Paras 20-25]

Constitution of India – Article 21 – Safeguards Against Custodial Torture – The investigating agency is bound by the inherent constitutional safeguards under Article 21 to ensure that the accused is not subjected to any threat, inducement, coercion, physical assault, or third-degree methods during custodial interrogation - Named investigating officials and jail authorities remain jointly and severally responsible for the safety and physical well-being of the accused. [Paras 20-25]

For Petitioner(s): Mr. Sidharth Luthra, Sr. Adv. Mr. Guntur Pramod Kumar, AOR Ms. Prerna Singh, Adv. Mr. Mihir Joshi, Adv. Mr. Suhail Ahmed, Adv.

For Respondent(s): Mr. L Narasimha Reddy, Sr. Adv. Mr. Byrapaneni Suyodhan, Adv. Mr. C Ajay Kumar, Adv. Ms. Obulapuram Keerthi, Adv. Ms. Tatini Basu, AOR Mr. Bharat J Joshi, Adv. Mr. G. Arun, Adv.

J U D G M E N T

Mehta, J.

1. Heard.

2. Leave granted.

3. The instant appeal by special leave is preferred by the State of Andhra Pradesh against the judgment and final order dated 7th July, 2026 passed by the High Court of Andhra Pradesh at Amravati¹ in Criminal Petition No. 5443 of 2026, whereby the High Court partly allowed the petition filed by the appellant-State under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023² and partly modified the order dated 2nd July, 2026 passed by the learned II Additional Judicial Magistrate of First Class, Vijayawada in Crl.M.P. No. 1400 of 2026 in Crime No. 107 of 2026 of Krishna Lanka Police Station, whereby police custody of the respondent-accused had been granted subject to a host of conditions.

4. The respondent-accused being an Inspector of Police is arraigned as an accused in connection with FIR in Crime No. 107 of 2026 lodged at Krishna Lanka Police Station, Vijayawada relating to allegations of custodial death of one Gade Sai Krishna³ on 6th May, 2026.

5. The deceased-victim was apprehended at Markapur at about 3:00 a.m. on 6th May, 2026 by the Task Force personnel. At about 7:00 a.m. the same day, he was brought to Krishna Lanka Police Station and formally handed over to the sentry, whereafter, along with his mobile phone, he came to be entrusted to the respondent-accused. As per the prosecution, the deceased-victim was never produced before the learned Magistrate, and many witnesses saw him in the police station with visible injuries.

6. The mother of the deceased-victim moved a Habeas Corpus petition in the High Court of Andhra Pradesh bearing Writ Petition No. 15132 of 2026 on 2nd June, 2026. During the course of the proceedings of the said petition, the respondent-accused being the concerned Police Inspector suppressed the fact that the deceased-victim had been apprehended and kept in police custody. On 17th June, 2026, the respondent-accused was placed under suspension. On 19th June, 2026, the mother of the deceased victim lodged a complaint before the Commissioner of Police, Vijayawada alleging illegal detention, custodial torture resulting in death, and disappearance of the body to screen the offenders and destroy evidence. On the strength of the said complaint, Crime No. 107 of 2026 came to be registered at Krishna Lanka Police Station for offences under Sections 127(4), 127(6), 103(1) and 238 of the Bharatiya Nyaya Sanhita, 2023⁴.

7. The preliminary examination of the DVRs seized from Krishna Lanka Police Station revealed that no CCTV footage was available for the crucial period during which the deceased-victim was stated to be in custody.

8. On 21st June, 2026, the Government of Andhra Pradesh constituted a Special Investigation Team⁵ to investigate Crime No. 107 of 2026. The respondent-accused was arrested by the SIT on 23rd June, 2026 and was produced before the learned II Additional Judicial Magistrate of First Class, Vijayawada on 24th June, 2026, whereupon he was remanded to judicial custody and consequently lodged at the Central Prison, Rajamahendravaram.

9. On 25th June, 2026, the prosecution filed a memo under Section 187 of the BNSS before the learned Magistrate seeking twelve days police remand of the respondent-

¹ Hereinafter, referred to as 'the High Court'.

² For short, 'BNSS'.

³ Hereinafter, referred to as 'the deceased-victim'.

⁴ For short, 'BNS'.

⁵ Hereinafter, referred to as 'SIT'.

accused, citing the imperative need to trace the fate of the deceased-victim, identify coaccused persons, recover material evidence, confront the respondent-accused with falsified official records and for reconstruction of crime scene.

10. By a detailed order dated 2nd July, 2026 passed in CrI.M.P. No. 1400 of 2026, the learned II Additional Judicial Magistrate of First Class, Vijayawada, granted police custody of the respondent-accused for a period of eight days, i.e., from 3rd July, 2026 to 10th July, 2026, to be conducted within the premises of the Central Prison, Rajamahendravaram, on the following terms & conditions:

28.1. The respondent/accused shall be entitled to nominate two advocates, namely Sri P. Baburao and one other advocate of his choice, to be present at the Central Prison, Rajamahendravaram, during police custody. However, only one advocate shall be permitted to remain present at any given point of time during the interrogation.

28.2. The advocate accompanying the accused shall remain within the line of sight of the interrogation, but shall be positioned at a distance of not less than ten (10) feet from the place of interrogation, or behind a glass partition, so that the advocate may observe the proceedings without being within hearing distance.

28.3. The advocate shall not interfere with the interrogation, communicate with, advise, prompt, consult, or otherwise interact with the accused during the course of interrogation.

28.4. The Investigating Officer shall ensure that the entire interrogation is conducted within the coverage area of the CCTV cameras or any other video recording system installed in the jail premises, so as to ensure transparency, fairness and accountability.

28.5. The entire period of police custody, including every session of interrogation, shall be continuously videographed and audio-visually recorded without any interruption, pause or editing.

28.6. The original videographic recording shall be preserved in its original form and produced before this Court in a sealed cover immediately upon completion of the police custody.

28.7. The Jail Superintendent/Jailor shall ensure that the accused is not interrogated or interacted with by the SIT officials except during the scheduled and videographed interrogation sessions.

28.8. The Jail Superintendent/Jailor shall make necessary arrangements within the jail premises, preferably by providing a glass partition, enabling the advocate to observe the interrogation while remaining beyond hearing distance.

28.9. The Investigating Agency shall not subject the accused to any threat, inducement, coercion, physical assault, mental harassment or third-degree methods during the course of custodial interrogation.

28.10. The Jail Superintendent/Jailor shall permit the presence of one advocate during the interrogation of the accused in accordance with the above conditions and subject to the provisions of the Jail Manual.

28.11. The Superintendent, Central Prison, Rajamahendravaram, shall permit the Investigating Officer, the Additional Superintendent of Police, other authorised SIT officials, and the advocate of the accused to enter the jail premises for the purpose of investigation, strictly in accordance with the Jail Manual.

28.12. Upon completion of each day's interrogation, the Jail Superintendent shall forthwith submit a report to this Court indicating the time of arrival and departure of the Investigating Officers and the advocate present during the interrogation.

28.13. The Jail Superintendent shall ensure that the CCTV footage recorded within the jail premises during the period of police custody is preserved intact until further orders of this Court and shall not permit its deletion, overwriting or tampering.

28.14. The Investigating Officer, the Additional Superintendent of Police, the members of the SIT, and the Jail Superintendent shall be jointly and severally responsible for ensuring the safety, life and physical well-being of the accused/A.1/Suda Suresh Veera Venkata Naga Raju, throughout the period of police custody.

28.15. Under no circumstances shall the period of police custody granted under this order be extended beyond 10.07.2026.”

11. Aggrieved by the conditions aforesaid, to be specific, Conditions 28.1, 28.4, 28.5, 28.10, 28.13, 28.14 and 28.15, the appellant-State preferred Criminal Petition No. 5443 of 2026 before the High Court under Section 528 of the BNSS on the ground that confining the entire custodial interrogation to the Central Prison, Rajamahendravaram, and mandating an omnibus regime of continuous videography impinged upon the autonomy of the investigating agency rendered the very object of police custody illusory.

12. The High Court disposed of the Criminal Petition by modifying the order dated 2nd July, 2026 to the following extent:

(i) The period of police custody shall commence from 09.07.2026 and end by 16.07.2026;

(ii) The Investigation Officer of the Special Investigation Team (SIT) is allowed to take the Respondent/Accused to the scene of offences for recovery of material evidence, reconstruction of scene of offence and for such other purposes, in accordance with the law, in the event of facts revealed by the respondent-accused;

(iii) The Special Investigation Team (SIT) shall take all necessary steps by considering the ground realities to videograph the every movement of the accused right from Central Prison, Rajamahendravaram to Vijayawada and vice-versa; and the Investigation Officer of the Special Investigation Team (SIT) shall submit the said videographic recordings in its original form before the concerned Jurisdictional Magistrate at Vijayawada, by 17.07.2026;

(iv) The Jail Superintendent, Central Prison, Rajamahendravaram shall submit the entire CCTV footage recorded in the Central Prison during the course of police custody, in its original form, to the concerned Jurisdictional Magistrate at Vijayawada, by 17.07.2026;

(v) The Investigation Officer and all the members of the SIT are directed to take all positive steps to protect the life, limb and personal dignity of the respondent/accused in the light of constitutional safeguards, during the entire period of police custody;

(vi) All the other conditions imposed by learned II Additional Judicial Magistrate of First Class, Vijayawada, vide Order dated 02.07.2026 in CrI.M.P.No. 1400 of 2026, shall remain intact;

(vii) The Special Investigation Team (SIT) shall conduct an impartial and scientific method of investigation to unravel the truth and uphold the integrity of ‘Satyameva Jayate’, the national motto of India.

13. The State is now before us by way of this appeal with special leave questioning the aforesaid conditions imposed by the High Court which, as per the State, directly impinge upon the rights of the Investigating Officer to conduct unhindered investigation without any restrictions and conditions.

14. Mr. Sidharth Luthra, learned senior counsel representing the appellant-State vehemently and fervently urged that the conditions imposed by the learned Magistrate as modified but substantially retained by the High Court tantamount to direct intervention in

the statutory right of the investigating agency to conduct interrogation in a proper manner, and that the very purpose of the purported interrogation has been rendered nugatory by these conditions. He submitted that the High Court as well as the learned Magistrate seem to have proceeded with a pre-conceived notion that the SIT will resort to third-degree methods while conducting interrogation, an apprehension which, according to him, is wholly misconceived and unwarranted.

15. Learned senior counsel submitted that the restrictions imposed by the High Court while affirming many of the unjust and unrealistic conditions imposed by the learned Magistrate virtually make the efforts to interrogate the respondent-accused ineffective. The direction to videograph every movement of the accused right from Central Prison, Rajamahendravaram to Vijayawada and vice-versa impinges upon the freedom of the investigating agency to reconstruct the crime scene and frustrate the process of the disclosures which may lead to the recovery of the dead body - an imperative step of investigation.

16. Shri Luthra urged that the direction No. (iii) contained in the High Court's order effectively translates into a situation that the interrogation of the respondent-accused would have to be conducted only at Central Prison, Rajamahendravaram and the investigating agency would not be at liberty to conduct such investigation in its own designated interrogation centre where scientific and technical facilities are available.

17. It was further submitted that once the High Court, by Direction No. (v), had already bound the investigating agency to take all positive steps to protect the life, limb and personal dignity of the respondent-accused in the light of constitutional safeguards throughout the period of custody, no further conditions were called for; and that the retention of the remaining conditions imposed by the learned Magistrate has created unnecessary hurdles in the process of investigation thereby rendering the police remand totally ineffective. Learned senior counsel accordingly submitted that the impugned judgment, as well as the order of the learned Magistrate deserve to be set aside, and the SIT be granted unfettered custody, subject only to such constitutional safeguards as are consistent with the law declared by this Court.

18. *Per contra*, Mr. L. Narasimha Reddy, learned senior counsel appearing for the respondent-accused vehemently and fervently opposed the submissions advanced on behalf of the State. He urged that the respondent-accused had arrested many criminals who are lodged in the Prison at Vijayawada. In case he is taken to the said prison, his life would be at risk. He urged that the other restrictions imposed by the learned Magistrate and the High Court are directly in line with the judgments rendered by this Court and just reiterate the constitutional protections to which every accused is entitled. He thus urged that the impugned judgment does not warrant any interference and the appeal deserves to be dismissed.

19. We have heard the submissions advanced at bar and have gone through the impugned order passed by the High Court and so also the order passed by the learned Magistrate which has been partially affirmed by the High Court.

20. At the outset, we are concerned solely with the narrow question of the legality and workability of the conditions imposed during police custody period as allowed by the learned Magistrate and modified by the High Court. We feel that the apprehension expressed by the investigating agency regarding the hurdles created in effective custodial investigation thereby frustrating the entire process is realistic and justified. Moreover, the apprehension expressed by the respondent-accused regarding the threat to his life, limb

and personal dignity has been taken care of by the High Court by commanding that the respondent-accused shall not be subjected to any threat, inducement, coercion, physical assault and third-degree methods during the course of custodial investigation. Needless to say, that the burden would be on the SIT to ensure all these safeguards irrespective of the impugned orders as these conditions are inherently provided in Article 21 of the Constitution of India. The concerned authorities including the investigating officer, the Additional Superintendent of Police, the members of the SIT and the jail superintendent have been held jointly and severally responsible for ensuring safety and physical well-being of the accused throughout the period of police custody.

21. In this background, confining the entirety of the custodial interrogation to the Central Prison, Rajamahendravaram is neither justified nor sustainable on the facts of this case. The offence of custodial death in which the respondent-accused is arraigned is alleged to have been committed at, and in the vicinity of, Krishna Lanka Police Station, Vijayawada; the dead body of the deceased-victim remains untraced; the original hard disks of the CCTV system are yet to be recovered; and it is the specific case of the prosecution that discoveries under Section 23 of the Bharatiya Sakshya Adhiniyam, 2023 (erstwhile Section 27 of the Indian Evidence Act, 1872) are imminent if the respondent-accused is properly interrogated. The efficacy of this procedure would undoubtedly be dependent upon the investigating officer being able to take the accused to the actual place of discovery, and not merely to interrogate him about it from a distance of 160 kilometers.

22. The statutory scheme under the BNSS must also be borne in mind. Section 187(2) and (3) BNSS, unlike the erstwhile Section 167 under the Code of Criminal Procedure, 1973 enlarges the window during which police custody, in the aggregate not exceeding fifteen days, may be sought by the investigating agency, such custody being available in parts, during the first forty or sixty days of the total permissible period of detention, rather than being confined to the first fifteen days of remand alone. This legislative change was intended precisely to meet situations, such as the present, where fresh facts, discoveries or leads may emerge during the course of investigation warranting further custodial interrogation, and an unduly rigid or premature foreclosure of that statutory window, whether by a Magistrate or by a court in the exercise of its supervisory jurisdiction, would run counter to the object of the provision. We are, therefore, unable to sustain Condition 28.15, which places an absolute and non-extendable outer limit on custody, since such a limit forecloses recourse to Section 187(2) BNSS regardless of what the investigation may yet reveal.

23. Section 38 of the BNSS reads thus:

“38. Right of arrested person to meet an advocate of his choice during interrogation. - When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.”

24. A plain reading of the provision makes it clear that the right guaranteed thereunder is the right to meet an advocate of choice during interrogation. It does not, by any means, contemplate the continuous, ongoing physical presence of an advocate for the entirety of each interrogation session, whatever be the visual or audible distance maintained. Therefore, we are of the view that Conditions 28.1 to 28.3, 28.8 and 28.10, insofar as they permit the nomination of two advocates and regulate the manner and distance of the advocate's presence so as to preclude interference with, or communication during, interrogation, are unobjectionable and, indeed, salutary. However, the direction that such presence should be available “at any given point of time during the interrogation”, if construed as conferring an unqualified entitlement to continuous presence, would travel

beyond what Section 38 BNSS itself contemplates, and we clarify the position accordingly in the operative directions that follow.

25. On the question of videography and CCTV documentation, we are in agreement with the High Court that such safeguards are salutary and ought ordinarily to be retained so as to protect both the accused, against any allegation of coercion, and the investigating agency, against any unfounded allegation of impropriety. However, the direction that every movement of the accused, including transit of about three hours each way over a distance of approximately 160 kilometers between the Central Prison, Rajamahendravaram and Vijayawada, must be continuously videographed without interruption, is, in our view, unworkable in practice. Interruptions on account of movement, signal loss, battery and storage, limitations of recording equipment, or security considerations during transit are inherent contingencies of road travel, and it would be unrealistic, and self-defeating of the safeguard itself, to visit the investigating agency with the consequence of an inference of impropriety merely because of such an interruption. What the safeguard requires is that the interrogation itself, that is, the actual questioning of, or interaction with, the respondent-accused be continuously and contemporaneously recorded; the requirement cannot extend to an inflexible mandate to record every minute of transit, which is a totally logistical exercise.

26. As regards the apprehension voiced on behalf of the respondent-accused that his life would be at risk if lodged for interrogation at a facility in Vijayawada on account of his having, during his tenure, effected the arrest of persons presently confined there, we find that this apprehension can be adequately addressed by requiring that interrogation outside the Central Prison, Rajamahendravaram be conducted at the designated interrogation centre of the SIT or an equivalent secure facility under police or SIT control, and by continuing to fix joint and several responsibility on the named officers for the respondent-accused's safety, as under Condition 28.14. We find no material on record, beyond the bald and unverified apprehension, to suggest that the designated interrogation centre would be unsafe or inadequate for this purpose.

27. Having regard to the foregoing, the terms and conditions imposed in the order of the learned Magistrate and the High Court are modified in the following terms: -

- (i) The period of police custody shall commence from the date of production of the respondent-accused before the learned Magistrate pursuant to this judgment and shall remain in force for a period of seven (7) days therefrom. Thus, the total period of police remand including that granted by the Courts below would not exceed fifteen (15) days.
- (ii) The Investigating Officer shall have unrestricted access to the respondent-accused during the period of police custody for the purposes of interrogation.
- (iii) The condition confining custodial interrogation exclusively to the Central Prison, Rajamahendravaram is set aside as unworkable and unjustified. The Investigating Officer shall be at liberty to interrogate the respondent-accused at the designated interrogation centre of the SIT, or any other equivalent facility available with the police authorities at Vijayawada.
- (iv) The requirement that the process of custodial interrogation, wherever conducted, shall be conducted under CCTV coverage and/or videographic supervision is retained. It is, however, clarified that this requirement stands satisfied by audio-visual recording of the actual sessions of interrogation and of any proceedings of discovery or recovery undertaken with the accused; it shall not be read as mandating uninterrupted videography of the transit of the accused between locations.

- (v) The Investigating Agency shall not subject the respondent-accused to any threat, inducement, coercion, physical assault, mental harassment or third-degree methods during the course of custodial interrogation, whether at the Central Prison or elsewhere.
- (vi) The direction given by the learned Magistrate permitting presence of the lawyer is retained with the modification that such lawyer shall only be allowed to remain present within the site of interrogation where he can see the respondent-accused. However, the lawyer shall not be permitted to intervene in the process of investigation at any cost.
- (vii) A copy of the CCTV footage and of the videographic recording in its original form without deletion, overwriting, editing or tampering shall be produced, together with a certificate under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 (corresponding to Section 65B of the Indian Evidence Act, 1872), before the learned Magistrate at Vijayawada upon the completion of the period of police custody.
- (viii) The Investigating Officer, the Additional Superintendent of Police, the members of the SIT, and the Jail Superintendent/officer-in-charge of the facility where the accused is lodged during custody, shall be jointly and severally responsible for ensuring the safety, life and physical well-being of the respondent-accused throughout the period of police custody.
- (ix) The SIT shall conduct an impartial, fair and scientific investigation strictly in accordance with law, uninfluenced by any observation made in this judgment or in the judgment of the High Court, such observations having been made solely for the disposal of the respective proceedings.

28. The appeal is allowed in these terms.

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

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)
