

Date: 10.9.2023 Cr.No.29/2021 of CID P.S., A.P., Mangalagiri

1. The Accused no.37 Sri Nara Chandrababu Naidu in Crime No.29/2021 is produced before me on 10.9.2023 at 6.00 a.m. through Sri Ch. Sambasiva rao, Inspector of Police, Sri T.Adireddy HC 308, Sri B.Sambasiva Rao PC 6523 and Sri P.Srinivasa Rao PC 3943 of EOW II, CID P.S., A.P., Mangalagiri seeking remand of Accused No.37 to judicial custody for a period of 15 days.
2. The name and other descriptive particulars of Accused no.37 tallied with the Remand Report. On inquiry accused no.37 stated that he was examined by the doctor at GGH, Vijayawada today and by one Medical Practitioner earlier. Accused no.37 further stated that his BP and Sugar levels has been increased. When questioned about time of arrest, he stated that his office was surrounded by the police on the night of Friday (8.9.2023) itself at 11.00 p.m. onwards and that in the early hours in between 5 to 5.30 A.M. on the next day i.e., Saturday (9.9.2023) two to three officials came to him and among them Mr.Raghuramireddy, DIG, SIT and Investigating Officer Dhanunjay introduced themselves to him. He further stated that when he asked them about the reasons for their presence, they told him that they were to serve arrest notice to him and that when he questioned them what is the prima facie case against him, they did not give any reply.
3. When questioned about ill-treatment in the hands of Police, accused no.37 replied that the police continuously moved him in the vehicle on road till today i.e., 10.9.2023 at 6.00 A.M. and he was in their custody. When questioned with regard to serving of case copies, accused no.37 stated that he was furnished FIR and arrest notice and only today just before producing before the court and served with copy of Remand Report. When questioned about any ill-treatment in the hands of police, he stated that he was not dealt

physically, but mentally harassed by the police personal throughout. Accused no.37 stated that he was arrested in this case without any material and that he was interrogated by DIG who was not authorized to investigate the case and that the police officials without any authority with malafide intention live telecasted the interrogation. Accused no.37 was represented by Sri Ginjupalli Subba Rao, Sri M.Lakshmi Narayana, S.Pranathi, P.Sai Surya Teja, Sri S.Srinivasa Rao, Advocates who filed Memo of Appearance simultaneously with the Remand report. Perused the medical report of accused no.37 and arrest notice served on Sri K.Srinivasa Rao, Polit Bureau member, TDP, Ananthapuram. Accused no.37 submitted his capacity to engage an Advocate and was represented counsels on record for accused no.37 Sri G.Subba Rao and others and learned Senior Advocate Sri Siddardha Ludra.

3. Heard the learned Additional Advocate General Sri Ponnawolu Sudhakar Reddy appearing for CID as per G.O.Ms.No.320 Dt.21.3.2023 and Sri Yadavalli Naga Vivekananda, Government Pleader to assist the Addl. Advocate General. Heard the learned counsel for accused no.37 Sri Siddartha Ludra.

4. Perused the remand report, C.D. FIR and other material on record. The learned Addl. Advocate General appraising the remand report along with other enclosed documents running to 700 pages requested this court to remand the accused no.37 to judicial custody for enabling the Investigating Agency to conclude the further material investigation which is not otherwise conducive. In contra the learned Senior Counsel for accused no.37 opposed the very production of the accused no.37 before this court as illegal and as against the provisions of 57, 167 (1) Cr.P.C. and against the spirit of Article 22 of the Constitution of India submitting that accused no.37 was arrested by the Police at about 11 P.M. on 8.9.2023 itself and to cover up the illegal

detention of about 7 hours his formal arrest was shown as 6.00 A.M. on 9.9.2023 at Nandyala. Reliance was placed on **1994 (3) SCC 440 between Directorate of Enforcement Vs. Deepak Mahajan and another wherein the Hon'ble Apex Court referring to Roshan Beevi Vs. Joint Secretary, Government of Tamilnadu 1984 Cr.L.J. 134** held that the word arrest when used in its ordinary and natural sense means the apprehension of restraint or deprivation of ones personal liberty and that the question whether the person is under arrest or not depends on his personal liberty to go where he pleases.

5. In this aspect when accused no.37 was enquired, at the time he was produced before this court he categorically stated that though police surrounded his bus at around 11 P.M. on 8.9.2023 itself, none of them confronted or communicated with him. He further stated that the Investigating Officers approached him only in the early hours 5.30 to 5.45 A.M. on 9.9.2023. As per the provisions of Sec.46 of Cr.P.C. the term arrest denotes confinement of body of a person and necessarily involves the taking of the accused into physical custody by the person who effects the arrest. In this case on hand, the presence of the Investigating Agency as submitted by the accused within his vicinity without any physical custody or detention, cannot be considered as arrest. As per the arrest notice issued to accused no.37 filed along with the remand report, his arrest was initiated at 6.00 A.M. on 9.9.2023. Accused no.37 acknowledged the same and there is no dissenting endorsement. Accordingly the arrest of accused no.37 can be considered to be effected only at 6.00 A.M. on 9.9.2023.

6. As per the provisions of Sec.57 of Cr.P.C. no person shall detained in custody a person arrested without warrant for longer period when under all

the circumstances of the case is reasonable and such period shall not in absence of special order of the Magistrate under Sec.167 Cr.P.C. exceeds 24 hours exclusive of time necessary for the journey from the place of arrest to the Magistrate Court. The accused no.37 was produced before this court at 6.00 A.M. today i.e., 10.9.2023 including the journey time from Nandyala to Vijayawada which is around 6 hours. Accordingly it cannot be said that accused no.37 remained in detention beyond 24 hours from his arrest till his production before this court. Though the learned Senior counsel for accused no.37 submitted that Investigating Officer did not follow the mandatory provisions under Sec.167 of Cr.P.C. by producing accused no.37 before the nearest Magistrate, that the same cannot be considered appropriate objection as the production of the accused no.37 before this court is in time within the illegal ambit of above provisions.

7. Next coming to the facts of the case, the case in Cr.No.29/2021 is registered on 9.12.2021 for the offences punishable under Secs.166,167, 418, 420, 465, 468, 471, 409, 201, 109 r/w 120-B IPC and Secs.12, 13 (2) r/w 13 (1) (c) and (d) of Prevention of Corruption Act, 1988 against accused no.1, the then Special Secretary to the Government, Skill Development Entrepreneurship & Innovation Department, and the then Ex-Officio Secretary to the Hon'ble Chief Minister of Government of Andhra Pradesh and MD and CEO of A.P.S.S.D.C. and 26 others based upon the report Dt.7.9.2021 submitted by Chairman, APSSDC .

a) The brief averments of the complaint are that the erstwhile Government of Andhra Pradesh has issued orders in G.O.Ms.No.47 (HE) (EC.A2) Department dated 13.12.2014 incorporating APSSDC. The brief averments of the complaint are that the erstwhile Government of Andhra

Pradesh has issued orders in G.O.Ms.No.47 (HE) (EC.A2) Department dated 13.12.2014 incorporating APSSDC. The object of project scheme is to import Hi-end technology to the trainers. SIEMENS offers training programme in collaboration with various State Governments. In the negotiations, the State Government has agreed to established SIEMENS centers of Excellence, Technical Skill Development Institutions and Skill Development Centers in different clusters. Each cluster comprises of one Center of Excellence, five technical Skill Development Institutions and Skill Development Centers. Six such clusters have been formed at the inception at a cost of Rs.5,46,84,18,908/- with SIEMENS and Design Tech providing a grant-in-aid of Rs.491,84,18,908/- i.e 90% and a Government share thereof is 10% i.e Rs.55 Crores.

b) A memorandum of Agreement (in short MOA) has been entered into between APSSDC and SIEMENS in furtherance of G.O.Ms.No.4 Dt.30.6.2017 of Skill Development Entrepreneurship and Innovation (Skills) Department. SIEMENS is a combination of M/s. SIEMENS Industry Software (India) Private Limited and M/s. Design Tech Systems Private Limited.

c) A tax investigation by the Additional Director General, GST, Intelligence, Pune in respect of claims of availing of CENVAT credit by M/s. Design Tech Systems Pvt. Ltd and M/s. Skillar Enterprises India Pvt. Ltd., led to unearthing a huge financial scam involving crores of rupees by M/s. SIEMENS Industry Software India Pvt. Ltd., and M/s. Design Tech Systems Pvt.Ltd. As per the MOA, Design Tech has to provide training software development including various sub modules designed for high end software for advance manufacturing CAD/CAM. As per the investigation conducted by Addl DGGI, Pune concluded that both the services provided and service

receiver had taken contradictory stands regarding the nature of services. An in depth scrutiny into the records by the A.D.G.G.I. revealed that training software development including various sub modules shown as supplied by Skillar to DesignTech were purchased by Skillar from

1. M/s. Allied Computers International (Asia) Ltd., Mumbai (In short M/s.ACI)
2. M/s. Patrick Info Services Private Ltd., M/s. I.T. Smith Solutions Pvt. Ltd.
3. M/s. Inweb Info Services Pvt. Ltd., all based at New Delhi
4. M/s. Arihanth Traders, New Delhi
5. M/s. G.A.Sales Pv. Ltd., New Delhi

d) All these companies are shell/defunct companies and they were issuing invoices without providing any services. It is patent that all these companies have formed into a Cartel to siphoning the public funds tuning to Crores of rupees. The Managing Director of DesignTech admitted before Asst. Director General that he does not have any evidence to show that services have been received from these companies. After the financial irregularities have come to surface, directions have been given to APSSDC to conduct a Forensic Audit and to furnish a copy of the report for taking further action. Accordingly, a work order has been assigned to M/s. Sharath and Associates, Chartered Accountants, Forensic Audit Firm. The audit firm conducted an enquiry and submitted a report. The Forensic audit is concerned with pointing out the flaws in polities, flaws in systems flaws in utilization of funds and analysis of various spending practices and to find out irregularities, misstatements, governance procedures, internal policies evaluation for the financial years 2014-15 to 2018-19. Various irregularities have been noticed by the team of auditors and the report thereof is self-explanatory.

e) M/s. SIEMENS and M/s. Design Tech have to oversee the clusters and their maintenance. Instead of doing so, both of them swindled crores of rupees in an dubious manner . Their acts effected the economy of the state. Finally it is alleged that the funds of APSSDC to the tune of Rs 241 crores were illegally diverted to associated shell companies with out executing any work or providing competent service. As per instructions of the Managing Director APSSDC vide memo no 143741/skill/2021 dated 11.07.2021 and 4.09.2021, the report was lodged with CID Police station A.P to take legal action.

8. During the course of investigation Sri Nara Chandra Babu Naidu, the then Chief Minister of erstwhile Government of Andhra Pradesh, was added as accused no.37 along with accused no.38 former Minister, with the following allegations in nexus with the crime.

a) In the month of July, 2014 after appointing Sanjay Daga, Sales Head of M/s. Design Tech company to Sri Nara Chandra Babu Naidu (Accused no.37), the then Chief Minister of A.P. on the Skill development project through Illendula Ramesh, who is a leader of TDP Party and close associate of accused no.37, he informally gave commitment for APSSDC- SIEMENS project and forwarded a letter given by them to Higher education department. After that, on the instructions of accused no.37, the then Secretary to accused no.37 called G.Subba rao (Accused no1) and introduced to Sanjay Dage of M/s. Design Tech to deal with the technology partners i.e. M/s. Design Tech Company and M/s. SIEMENS company and to pursue the Skill Development (APSSDC-SIEMENS) Project. Later on 22.8.2014, Sanjay Daga and his team of M/s. Design Tech and M/s

SIEMENS companies and others gave a presentation on the Skill Development project to accused no.37 at Secretariat, A.P.

- b) After that presentation, APSSDC was formed by accused no.37 on 10.9.2014 by appointing his henchman G.Subba Rao (Accused no.1) and K.Lakshmi Narayana, IAS Retired (Accused no 2) as a MD & CEO, Director for APSSDC respectively, without getting approval from the AP Cabinet and against the remarks of the higher officials in the note files. Accused no.37 himself approved the same by deviating the remarks of the higher officials in the note files noted that "for formation of corporation cabinet approval is necessary as per Business rules of AP" and formed APSSDC by keeping same agency under control of Higher education department with an intention to misappropriate the Government funds in the name of Skill Development project through accused nos.38, 1, 2 and in collusion of SIEMENS and Designtech companies.
- c) On the instructions of Accused no.37, on 20.10.2014 the board comprising Accused no 1 and 2 appointed his henchman J.Venkateswarlu, Chartered Accountant who is a close associate and relative of Accused no 2 as an auditor to the APSSDC. accused no.37 approved Memorandum of Association (MOA) and Articles of Association (AoA) of APSSDC through the coordination and assistance of G.Subba Rao (Accused no1), MD & CEO of APSSDC and issued GOMs.No.48 without following the due procedure.
- d) On 7.10.2014, Accused no.37 appointed G.Subba Rao Accused no.1 to another post i.e. an Ex-officio Secretary to Higher Education Department to execute the plan of accused no.37 and to

play a key role in the execution of a plan misappropriation of Government funds in the SIEMENS project. On the instructions of accused no.37, G.Subba Rao A1 coordinated and colluded with Dr.K.Lakshmi Narayana A2, Suman Bose A6, MD of SIEMENS company, Vikas Khanvelkar A8, MD of M/s. Design Tech Company and other accused of SIEMENS team and got prepared the cost estimation of the APSSDC-SIEMENS Project through them lead by Suman Bose without any base, supported bills, quotations, reasonable explanation of the cost, detailed project report etc. Same cost estimation of the project was submitted as a draft resolution of table item through G.Subba rao A1 one day before i.e., on 15.2.2015 to the cabinet meeting of AP headed by accused no.37 held on 16.2.2016. Accused nos.37 and 38 through the AP Cabinet including accused no.38 headed by accused no.37 approved the Skill development project for the said cost furnished through the cost estimation as a special item (means in special conditions, at urgency) to establishment of 6 clusters in AP, each cluster cost of Rs.546.84 Crores with 90% contribution of M/s. DesignTech and M/s. SIEMENS companies provides under grant-in-aid and 10% contribution by Government of A.P. for 2 years. As per the whims and wishes, criminal intention of accused nos.37 and 38 the said project was approved by the AP cabinet on the instructions of accused no.37 without verifying the authenticity, basis for the cost estimation of the project, without getting 3rd party evaluation, without doing assessment and without following the due tender process etc.

- e) As per cost estimation, 6 clusters cost was projected as Rs.3319.68 (553.28 x 6 clusters) but actual cost of the project as per the cost estimation was Rs.214.88 crores. It is not a profit made project, the Technology partners have to give grant-in-aid to the project without looking for the profit, but in the cost estimation period itself the accused got wrongful gain Rs.115 Crore in the form/by showing of margin amount in the cost estimation. But among this project cost of Rs.214, again accused no.37 with the support and assistance of other accused misappropriated APSSDC funds, got wrongful gain through diversion of funds to shell/ inoperative companies.
- f) On perusal of the said various versions of cost estimations, it is found that the Government contribution was fixed as Rs.55 Crore for each cluster of COE and estimation was prepared. They fixed up Rs.55 Crore as the proposal price for Government contribution under 10% cost of total project cost and they manipulated and adjusted values to show or to arrive 90% contribution in total project cost by the Technology partners. Investigation disclosed that they manually entered values/ cost of materials/ different services without any supportive documents/ base to arrive at the pre-fixed amount.
- g) On 30.1.2015 even though SDE & I Department was not established, accused no.37 appointed accused no.1 for other additional higher post i.e., Secretary to Department of Skill Development, Enterprenuership and innovation Department (in short SDE & I) and as a Ex-officio Secretary to Chief Minister, AP by

issuing G.O.Rt.No.275 of GAD (SC-A) Dept. As on 30.1.2015, G.Subba Rao A1 was holding 4 prominent posts in AP Government as per the whims and wishes of accused no.37 and these undue favour was done by accused no.37 to execute accused no.37 plan i.e., misappropriation of APSSDC funds. After that on 25.2.2015, accused no.37 created a new department i.e., SDE & I for Skill development by issuing G.O.Ms.No.17 of AR & TI Dept. and to coordinate Skill development programmes of various departments. After that on 4.3.2015 on the representation of A1, A.P Cabinet headed by accused no.37 was approved to sanction a budget of Rs.370 Crores towards 10% contribution of Government to the APSSDC- SIEMENS project and issued G.O.Ms.No.4 of SDEI Department Dt.30.6.2015.

- h) Accused no.37 with an criminal intention, to create green channel to avoid intervention & supervision of Principal Secretary, Higher Education Department on these SIEMENS Project, the APSSDC was brought under SDEI Department for which accused no.1 was a Secretary (like Principal Secretary) through G.O.Ms.No.3 of SDEI Department Dt.26.6.2015 and got direct access for files movement and others of this skill development project directly from accused no.1 to accused no.37. This was done on 26.6.2015 i.e., 4 days prior to execution of agreement/Mou with Technology partners. accused no.1 was a head for these two departments i.e. MD & CEO to APSSDC and Secretary to SDE & I Department.
- i) Accused no.37 through accused no.38 and others fraudulently, falsely projected the total project cost as Rs.3281 Crores

(excluding taxes) without any basis and assessment. On 30.6.2015 GOMs.No.4 was issued through SDE&I Department and in this GO it was clearly mentioned the contribution of the technology partners (90%) and the Government (10%) to show the same to the public view. But accused no.37 abetted, allowed, cooperated and coordinated with accused no.1 and got agreement executed with the technology partners by the APSSDC through accused no.1 by intentionally omitting the important aspects i.e., 90% contribution of the technology partners, total cost of the project and bank guarantee clauses in the MoU and done officials favour to get wrongful gain to the technology partners to himself and other accused, gave scope to them to avoid their 90% contribution and to cause wrongful loss to the Government funds.

- j) Prior to 3 months before Smt.Aparna U IAS accused no.36 who is wife of accused no.35 GVS Bhaskar, Senior Director of SIEMENS company appointment as a Dy.CEO, accused no.37 allowed accused no.36 to participate in the presentation on the project by the SIEMENS team to accused no.37, accused no.38 and others at AP Secretariat and shared information regarding the APSSDC Project. After that accused no.37 appointed accused no.36 in a key post i.e. Dy. CEO to APSSDC on 17.7.2015 through the proposal of accused no.1 to execute their plan.
- k) The verification of note files on release of Government funds to the SIEMENS project and the statement of the then Higher Officers of Finance Department Chief Secretary of A.P., it is found that accused no.37 with criminal intention, collusion with accused

nos.1, 6 to 10 and others with an intention to extend favour to the Technology partners and obtained gain for himself without considering the adverse remarks against APSSDC project noted in the note files, accused no.37 created pressure on Sri IYR Krishna Rao former CS of A.P., and Sri P.V.Ramesh for releasing the funds immediately without taking 90% contribution from the Technology partners as grant-in-aid.

- l) Accused no. 37 in collusion with Accused no 1 and 2 , 38 along with other accused of SIEMENS and M/S Design Tech companies approved the budget of 370 crores even though adverse remarks/ comments noted by the officials of the government. The government in the note file through Accused no 1 gave administrative sanction Gos to release funds in September 2015 and accused no: 37 got released the budget of 370 crore during the period from 05.12.2015 to 31.03.2016 prior to third party evaluation and with out receiving 90% contribution in the total project as Grant in Aid from the said two companies.
- m) Accused no 37 through his henchmen i.e Accused no 1 caused disappearance of the evidence ie. Original note relating to the G.O Ms no 4 dt 30.06.2006 through Accused no 3, who had in possession of said note file to escape from liability of commission of the offence and to destroy the crucial evidence connected to the case.
- n) Accused no.37 with the criminal intention appointed his henchmen tie Accused no 1, 2, 38 and auditor Mr. J. Venkateswar rao and Strategically placed them in important posts in the APSSDC ,

executed his plan misappropriated around Rs. 279 crores of Government funds and allowed Accused nos.1 and 2 to continue in the same post, giving them an opportunity to destroy the regards i.e note file. The above misappropriation figures indicate the magnitude of the offence of misappropriation in the government.

9. The submission of the Investigating Agency is that accused no.37 by virtue of his official position may interfere with the further investigation in this case and may cause inducement to the witnesses acquainted with the facts of the case and that judicial custody of accused no.37 is deeply warranted for enabling the investigating agency to examine other official and private witnesses, collect relevant records and documents from the shell companies, evidence pertaining to deep rooted conspiracy involving siphoning of funds of APSSDC in execution of Skill Development Project and involvement of other public servants and the nexus of accused no.37 with other accused pertaining to diversion of funds, issuance of fake invoices and routing the money through the shell companies etc. It is apparent on record as above that accused no.37 was alleged for financial misdemeanor involving misappropriation of Rs.279 Crores as a public official with a deep rooted conspiracy inducting the offences under Secs.418, 420, 465, 468, 471, 409, 201, 109 r/w 120-B IPC and Secs.12, 13 (2) r/w 13 (1) (c) and (d) of Prevention of Corruption Act, 1988. However, the contention of the learned Senior Counsel for the accused is that inclusion of accused no.37 in this crime under the provisions of P.C.Act, 1988 (as amended 2018) is entirely illegal. In absence of any certificate as provided under Sec.17 A from the

competent authority to proceed investigation against public servant. Reliance was placed on citation reported in **2020 (2) SCC 338 between Yashwant Sinha and others Vs. Central Bureau of Investigation**. In contra, the learned Addl. Advocate General relied upon the preposition held by the Hon'ble Apex Court in **Kinjarapu Atchennaidu Vs. State of A.P. Rep.by ACB through the Special Public Prosecutor in 2020 SCC online AP 533** wherein the Hon'ble Apex Court referring to the Judgment in Yashwanth Sinha cited supra relied by the respondent held that the law passed today cannot apply to the events of past and upheld the registration of FIR in the aforesaid case by the respondent agency ruling out the infraction of Sec.17 A of P.C.Act, 1988 affectingly arrest of the petitioner and consequent action in remanding him to judicial custody under Sec.167 Cr.P.C.

10. In this case on hand, evidently the cause of action purported is prior to amendment of P.C.Act, 2018 which came to effect from 26.7.2018. Therefore, the subsequent registration of FIR pertaining to the offences prior to the amendment of P.C.Act does not attract the mandatory provisions under Sec.17 A of P.C.Act. in the light of above judgment of Hon'ble Apex Court.

11. The next contention of accused no.37 in this case the investigation in this case under the influence of superior officers who are not authorized to conduct investigation and the entire case is initiated against accused no.37 only based on the political vendetta. The learned Senior Counsel for accused no.37 on this aspect relied upon the case law reported in **R.Sarala Vs. T.S.Velu and others (2000 (4) SCC 459) and Gosu Jayaramireddy and another Vs. State of A.P. (2011) 11**

SCC 766). The alleged supervision of the Investigating Officer by his superior officer is fact concerned with technicality of investigation and it is not an appropriate concern at this point to interfere with remand under Sec.167 Cr.P.C. As far as political vendetta proposed by the learned Senior Counsel for accused no.37 the said ground itself does not rule out the allegations against the accused taking into consideration the other articulating material on record.

12. The next contention of the learned senior counsel for accused no.37 is that the CID has no jurisdiction to investigate the case under P.C.Act and that it is only Anti Corruption Bureau is the authorized Investigating Agency, hence pleads that entire crime attributed to accused no.37 is without any legal sanctity. In contra, the learned Additional Advocate General relied upon the Judgment of Hon'ble High Court of A.P. in Crl.Petition No.5009/2022 Dt.24.3.2023 between **Gogineni Ramanjaneyulu Vs. State of A.P.** and others wherein the Hon'ble High Court held that there is no specific bar as per the section 17 of P.C.Act warranting only Anti Corruption Bureau to investigate the matters of PC Act and further upheld the declaration of CID P.S. Mangalagiri as police station over the entire State. Accordingly there is no embargo on the CID officials to investigate the offences under P.C.Act. In this case on hand the specific offences alleged against accused no.37 are for the offences under Sec.409, 109 r/w 120 B of IPC and Secs.13 (2) r/w 13 (1) (c) (d) of P.C.Act, 1988. The learned Additional Advocate General relied upon the statement of Smt.K.Sunitha, the then Secretary Finance, Sri P.V.Ramesh, the then Principal Secretary Finance and one Mr.IYR Krishna Rao and other abstracts of Government of A.P. enclosed in

the CD file to support the version of Investigating Agency against the involvement of accused no.37 pertaining to alleged conspiracy, misappropriation of public office. In contra the learned Senior Counsel for accused no.37 elaborately submitted that the documentary evidence on record contradicts with the statements purported to have been made by above mentioned witnesses and they cannot be used for substantiating any prima facie case against the accused no.37. In this regard it is appropriate to look into the preposition held by the Hon'ble High Court of A.P. dealing with rejection of remand by this court pertaining to accused no.35 in citation reported in **2023 SCC online A.P. 466 between State Rep. By Deputy Superintendent of Police, Vs. Ganti Venkata Satya Bhaskar Prasad /accused no.35** in the self same crime. The Hon'ble High Court dealing with the scope of Sec.167 Cr.P.C. in reference to the case of **Mammubai Ratilal Patel Vs. State of Gujarath and Ramdoss Vs. State of Tamilnadu** held that while carrying out remand duty the learned Magistrate is not required to hold mini trial and it is the obligation on the Magistrate to consider whether the commission of cognizable offence is mentioned in the FIR and the police is justified in arresting the accused person and the grounds for continuation of police custody or grounds for judicial custody or to set the accused at liberty. Accordingly the truth or otherwise of the documents collected by the Investigating Agency and the evidentiary value of the statements of a witnesses recorded in the course of investigation cannot be looked into at this stage. This court is only confined to look into the prima facie material eliciting the allegations pertaining to cognizable offence against the accused sought for remand

and the grounds for extending the judicial or police custody or otherwise. Therefore, the contention of the learned Senior Counsel that the material on record is apparently falsified cannot be considered at this stage.

13. As far as the offences alleged against accused no.37 are under various substantial offences under IPC r/w Sec.109 and 120-B IPC along with offences under P.C.Act. The above material in the remand report, statement of witnesses, material collected in the CD File and accused alteration memo on record, prima facie shows that Accused no.37 in pursuance of criminal conspiracy, while holding his office as public servant colluded with other accused committed misappropriation of government funds to the tune of Rs.279 crores by corrupt and illegal methods huge loss to the Government Exchequer. There is prima facie material to suffice the nexus of accused no.37 with accused nos.1, 2,6,8, 38 and other representatives of shell companies. Similarly there is prima facie sufficient material eliciting the role of accused no.37 in approval of Skill Development Project and its activities to attract the offences under Secs.409 IPC, and Secs.13 (2) r/w 13 (1) (c) and (d) of P.C.Act. With regard to other offences, at this stage, the court can only proceed with the question whether the allegations would amount to offence which is alleged against the accused and not beyond when read together with Sec.109 and 120-B of IPC. The material on record prima facie makes out the case against accused no.37 for the alleged offences under Secs.418, 420, 465, 468, 471, 409, 201, 109 r/w 34 & 37, 120-B IPC and Secs.12, 13 (2) r/w 13 (1) (c) and (d) of Prevention of Corruption Act, 1988. The offence, alleged against accused no.37 specifically are under Prevention of Corruption Act, 1988 involving criminal misappropriation of office as

public servant and other substantial offences under Sec.418, 420, 465, 468, 471, 409, 201 and 109 r/w 120-B of IPC attracting imprisonment which may extend to 10 years and fine. Though the counsel for accused contended that the Investigating Agency did not follow the provisions of Sec.41 Cr.P.C. and it is a fit case to attract the provisions under Sec.41 A Cr.P.C. The allegations against accused no.37 as to offences for which his remand is sought is not covered under Sec.41-A Cr.P.C. The Investigating Agency along with Remand Report enclosed the reasons warranting the arrest of the accused no.37 in view of severity of the offence alleged against him which are all cognizable in nature. Therefore, considering the nature of allegations bearing social ramification, amount of alleged misappropriation to the Government Exchequer which is about Rs.279 Crores, stage of investigation, apprehension of the Investigating Agency as to interference of accused no.37 with investigation and other reasons mentioned in the remand report, this court is of opinion the opinion that there are reasonable grounds to remand accused no.37 to judicial custody. In view of the above discussion, accused no.37 is remanded to judicial custody till 22.9.2023 as provided under Sec.167 of Cr.P.C. for the offences under Secs.418, 420, 465, 468, 471, 409, 201, 109 r/w 34 & 37, 120-B IPC and Secs.12, 13 (2) r/w 13 (1) (c) and (d) of Prevention of Corruption Act, 1988. The Superintendent, District Jail, Vijayawada submitted that there are no sufficient security facilities in the District Jail, Vijayawada to accommodate the high profile accused persons. As pleaded accused no.37 falls under category of persons with Z plus security of NSG. Accordingly, this court is of the opinion it is needful to send accused

no.37 to Central Prison, Rajamahendravaram which was well equipped to accommodate the security issues of high profile accused persons.

14. Office is hereby directed to intimate the arrest of accused no.37 Sri Nara Chandra Babu Naidu to the Hon'ble Speaker, A.P. State Legislative Assembly and also to the Hon'ble Chief Secretary and Secretary to GAD, Government of Andhra Pradesh as per Rule 17 of Criminal Rules of Practice and circular orders, 1990.

JdS - BSV Himabindu
SPECIAL JUDGE FOR SPE & ACB CASES
-cum-III ADJ, VIJAYAWADA.

47CB011

A