

further took objections for the release of the amount unless for the reasons and six conditions imposed by the complied. Though the view taken by PFS, amounts were released based on the order of Chief Secretary and CM. Through M/s DesignTech, an estimated amount of Rs 279 Crores were siphoned off as described above, through shell companies, fake invoices, layered transmission of money and hawala transactions of cash.

- viii. This accused conspired with the Merchants, namely M/s. Design Tech and its Managing Director and the Managing Director of another Merchant, M/s SIEMENS, Pune. The said entities/persons being Merchants, in terms of the obligations imposed in GO Ms. No. 4 and also the tripartite agreement, were entrusted with the property being the monies of the State, of an amount of Rs. 371 crores with a clear cut direction in law, as contained in GO Ms. No.4, in any event as contained in the tripartite agreement, to perform the obligations of supplying the hardware and software as enumerated in annexure I and II of the agreement. On being entrusted with such monies, the Merchants committed criminal breach of trust, with the active conspiracy by this accused (Sri.N.Chandrababu Naidu), by not performing in accordance with G.O. Ms. No. 4 and the tripartite agreement, and by over ruling the objections raised by the concerned finance Department not to released the amount by indulging in acts of siphoning off the entrusted government monies. The accused herein, by being a conspirator therefore, is punishable under Section 409 of IPC, by reason of Section 120B (1)".
- ix. No monitoring committee as envisaged by a Government order was established to oversee the setting up of the Skill development Centres, owing to the connivance of N.Chandrababu Naidu and K.AtchanNaidu with the other accused.

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- x. All checks and balances such as valuation of the project by a third party (Central Institute of Tool Design) and maintenance of an Asset register through a competent agency were compromised to hide the wrongdoings of the accused.
- xi. The notefiles pertaining to the project were removed from the Secretariat by the accused, soon after the Central tax agencies started unearthing this network of misappropriation of funds.
- xii. The statements of the witnesses recorded and the note files pertaining to the relevant GOs disclosed that the accused A-37 acted being a Public servant during 2015-2019 and abusing his possession as Public servant, obtained pecuniary advantage to M/s DesignTech (A-4) which in turn money had been parked in the other shell companies such as PVSP/Skillar, ACI, Inweb and Patrick Info etc companies.

G (a) Note on overt acts of Sri N. Chandra Babu Naidu, the then CM of AP, along with the references of the concerned notefiles/documents:

- a. After approaching Sanjay Daga of M/s DesignTech company to Sri.N.Chandrababu Naidu on the Skill development project through Illendula Ramesh, who is a leader of TDP Party and close associate of Sri.N.Chandrababu Naidu, he (Sri.N.Chandrababu Naidu) informally gave commitment and forwarded a letter given by the Illendula Ramesh to Higher education department. After that, on the instructions of Sri.N.Chandrababu Naidu, the then secretary called G.Subbarao and introduced to Sanjay Daga of M/s DesignTech to deal with the M/s DesignTech company and to pursue the Siemens project. Later on 22.08.2014, Sanja Daga and his team along with Illendula Ramesh gave a presentation on the project to Sri.N.Chandrababu Naidu at the Secretariat, Govt of AP..
- b. APSSDC was formed by Sri.N.Chandrababu Naidu on 10.09.2014 without getting approval from the Cabinet, by appointing his henchmen Sri.G.Subbarao (A-1) and Dr.K. Lakshminarayana, IAS (Rtrd) (A-2) as a MD & CEO, Director for APSSDC respectively. Sri.N.Chandrababu Naidu himself approved the same by deviating the

remarks that "for formation of corporation cabinet approval is necessary as per Business rules of AP" and formed APSSDC by keeping under control of Higher education department with an intention to misappropriate the Govt. funds in the name of Skill Development project through Sri.AtchanNaidu, A-1, A-2 and in collusion of Siemens and DesignTech companies. On the instructions of Sri.N.Chandrababu Naidu, the board comprising A-1 and A-2 appointed J. Venkateswarlu, Chartered accountant who is a close associate, nearest relative of A-4 as an auditor to the APSSDC on 20.10.2014. Sri.N.Chandrababu Naidu approved MoA and AoA of APSSDC and issued GO.Ms.No.48 without following the due procedure through the coordination of A-1.

- c. Further, on 07.10.2014, Sri.N.Chandrababu Naidu appointed A-1 as a Ex-officio Secretary to Higher Education department, to execute the plan of Sri.N.Chandrababu Naidu and to play a key role in the execution of a plan of misappropriation of Govt funds in the Siemens project.
- d. On the instructions of Sri.N.Chandrababu Naidu, A-1 coordinated and colluded with A-2, A-6 to A-10 and got prepared the cost estimation of the Siemens Project through the Siemens team lead by A-6 without any base, supported bills, quotations, reasonable explanation of the cost, detailed project report etc. Same was submitted as a draft resolution of table item by A-1 one day before i.e. on 15.02.2015 to the cabinet meeting of AP held on 16.02.2014. Sri.N.Chandrababu Naidu and Sri.K.AtchanNaidu through the AP Cabinet headed by Sri.N.Chandrababu Naidu approved the Skill Development Project 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 provides under Grant in Aid and 10% contribution by Govt for 2 years. In the interest of Sri.N.Chandrababu Naidu and Sri.K.AtchanNaidu, the said project was approved by the AP cabinet on the instructions of Sri.N.Chandrababu Naidu, without verifying the authenticity, basis for the cost estimation of the project, without getting 3rd party evaluation, without doing assessment and without following the tender process.
- e. On 30.01.2015, even though SDE&I department was not established, Sri.N.Chandrababu Naidu appointed A-1 as a Secretary to Department of Skill Development, Entrepreneurship and Innovation dept (SDE&I) and as a Ex-officio

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secretary to Chief Minister, AP. As on 30.01.2015, A-3 was holding 4 prominent posts in AP Govt. After that on 25.02.2015, Sri.N.Chandrababu Naidu created a new department i.e. SDE&I (Skill Development Entrepreneurship and Innovation dept) to achieve the object of Skill development and to coordinate Skill development programs of various departments. After that, on 04.03.2015 on the representation of A-1, AP cabinet headed by Sri.N.Chandrababu Naidu was approved to sanction a budget of Rs.370.78 crores towards 10% contribution of Govt.

- f. Sri.N.Chandrababu Naidu with criminal intention, to create green channel, to avoid intervention, supervision of Principal secretary, Higher Edn dept on the Siemens project, the APSSDC was brought under SDE&I dept and got direct access of files movement of this project from A-3 to Sri.N.Chandrababu Naidu. This was done on 26.06.2015 i.e. 4 days prior to execution of agreement/MoU with Technology partners. A-1 was head for these two departments i.e. MD & CEO to APSSDC and Secretary to SDE&I department. Flow chart of the file movement furnished below.

APSSDC → SDE&I Department → Chief Minister of AP

- g. Sri.N.Chandrababu Naidu through the other accused Sri.AtchanNaidu, A-1, A-2, A6 to A-10 fraudulently, falsely projected the total project cost as Rs.3281 crores (excluding taxes) without any basis and assessment. On 30.06.2015, GO.Ms.No.4 was issued through SDE&I dept and clearly mentioned the contribution of the technology partners (90%) and the Govt (10%), to show the same to the public. Sri.N.Chandrababu Naidu abetted, allowed, cooperated and coordinated A-3 and got agreement executed with the technology partners by the APSSDC through A-1 by intentionally omitting the important aspects i.e. 90% contribution of the technology partners and Bank guarantee clauses in the MoU and done official favour to get wrongful gain to the technology partners, gave scope to them to avoid their 90% contribution and to cause wrongful loss to the Govt funds.
- h. Prior to 3 months before Smt Aparna.U, IAS (A-36) who is wife of GVS Bhaskar (A-35), Senior director of Siemens company appointment as a Dy.CEO, Sri.N.Chandrababu Naidu allowed her (A-36) to participate in the presentation on the project by the Siemens team to Sri.N.Chandrababu Naidu, Sri.K.AtchanNaidu and others at AP secretariat and shared information regarding the APSSDC project. After that,

Sri.N.Chandrababu Naidu appointed Smt. Aparna.U, IAS in a key post i.e. Dy.CEO to APSSDC on 17.07.2015 through A-1 to execute their plan.

i. On 11.03.2015, Sri.N.Chandrababu Naidu ,himself declared in the AP legislative assembly that the technology partners i.e. M/s DesignTech and M/s Siemens came forward to invest .90% i.e. around Rs.2,500 crores to the project. But here, Sri.N.Chandrababu Naidu conducted a monitoring meeting on 04.11.2016 and also after, over the said project, Sri.N.Chandrababu Naidu intentionally did not insist on the 90% contribution of the technology partners and didn't ask/verify how much amount contributed/invested by the technology partners to do official favor to them.

j. On verification of the note files on release of Govt funds to the Siemens project and the statements of the then officers of finance department, Chief Secretary of AP, it is found that Sri.N.Chandrababu Naidu with criminal intention, collusion with A-1, A-6 to A-10 and to do favour for the technology partners and to gain himself, Sri.N.Chandrababu Naidu,without taking consideration of adverse remarks of the officials of finance department noted on the abrupt release of Govt funds, instructed officials of finance department through the then Chief Secretary of AP to release the APSSDC funds immediately without taking 90% contribution from technology partners as Grant-in-Aid.

The important remarks of note files were furnished below.

1. In para number 35 of the note file of GO.Ms.No.47 regarding APSSDC formation, the Principal Finance Secretary clearly noted that "Creation of a new corporation requires cabinet approval". But Sri.N.Chandrababu Naidu floated rules and approved the note file for formation of APSSDC with noting that "issue immediately".
2. In para No.153 of the note file of GO.Rt.No.2452, regarding release of funds Rs.270 crores to Siemens project, the Principal Finance Secretary remarked that "the department is requested to work out protocol for operation of funds". On this the then CS of AP (Sri IYR Krishna Rao) instructed with note that "Para No.27 is agreed in a meeting conducted by CM. Finance may release BRO accordingly". At the note of the CM column it was mentioned that "ai" i.e. after issue. It means after issuing a Budget file may be put up to CM as already CM instructed CS to release funds.
3. As per para No.160 in the note file of GO.Rt.No.2452, the Smt K.Suneetha, Secretary, Finance clearly remarked by verifying all aspects that "it may be advisable for the Govt

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to reconsider releasing the total amount. May be a pilot project in one area as endorsed in para No.21 with 55 crores and asked for orders". On this Principal Finance Secretary instructed with note vide para No.161 & 162 that "The Chief secretary spoke to me (PFS) today requesting for immediate clearance of the file. Mr.G.Subbarao met me (CS) and requested for release of money as decided by the CM. Considering the decision of CS/CM, orders of CS at para 31 on page 46 be implemented. The Skill development department asked to furnish a copy of MoU for our record". After that the budget was released to Technology partners of the Siemens project as per the instructions of the A-37.

4. BROs for a total project amount of Rs.371 Cr was released in various installments to APSSDC in the year 2015. In para No.15 of page No.228 of note file regarding GO Rt.No.13, it is found that CS made his remarks that "issue is discussed in the meeting with CM. An Amount Rs.25 Crore BRO may be released and file put up after issue". After that, at the place of remarks of CM, a word "ai" i.e. after the issue of the said GO was mentioned.
5. In para No.31 of page No.67 of note file regarding GO Rt.No.12, it is found that the then Chief Secretary, AP put his remarks that "para No.27 is agreed (release of Rs.270 Crore) to in the meeting conducted by CM. Finance may release BRO (for Rs.270 Cr) accordingly". After that, at the place of remarks of CM, a word "ai" i.e. after the issue of said GO was mentioned.
6. Smt. K. Suneetha, IAS the then Secretary, Finance dept while circulating note file regarding sanction of Budget for Siemens project, she clearly mentioned that "Must ascertain whether the machines provided are outdated or contemporary". Without complying with her instructions, the budget was released as per the instructions of Sri.N.Chandrababu Naidu.
- k. Sri.N.Chandrababu Naidu in collusion with A-1 and A-2 along with the other accused of Siemens and M/s DesignTech Companies approved the budget of Rs.371 Crore even though adverse remarks/comments noted by the officials of Govt. in the note files, through A-3 gave administrative sanction GOs to release funds in Sep, 2015 and Sri.N.Chandrababu Naidu got released the budget of Rs.371 Crore from 05.12.2015 to 31.03.2016, prior to 3rd party evaluation and without receiving 90% contribution in the total project as Grant-in-Aid from the said 2 companies.

- i. On 14.05.2018, a complaint from the DGGSTI office, Pune was sent to ACB and disclosed all the details of routing of APSSDC funds to shell companies through the fake invoices without providing services to APSSDC by the M/s DesignTech and others. On this, regular enquiry was ordered by ACB, but not done anything during the Govt of Sri.N.Chandrababu Naidu. Even after knowing about this by Sri.N.Chandrababu Naidu to A-1 and they did not take any criminal action, preventive steps to stop misappropriation of APSSDC funds in the Siemens project.
- m. Sri.N.Chandrababu Naidu ,through his henchman A-1 i.e MD&CEO of APSSDC and Secretary, SDE&I dept., caused to the disappearance of the evidence i.e. original note file relating to the GO.Ms.No.4, dt.30.06.2016 through the A-3 (OSD to A-1) who had in possession of said note files. This act was done to escape from the liability of the commission of the offence and to destroy the crucial evidence connected to this case.
- n. Sri.N.Chandrababu Naidu, with criminal intention, appointed his henchman i.e. A1, A2 and auditor J.Venkateswar Rao and strategically placed them in important posts in the APSSDC, executed his plan and misappropriated around Rs.145,37,32,468 of Govt. funds. He allowed his henchman (A-1), (A-2) etc to continue in the same post giving them an opportunity to destroy the records i.e note files. The above misappropriation figures indicate the magnitude of the offence of misappropriation in the Government.
- o. As per the material of evidence, it is clearly established that Sri.N.Chandrababu Naidu committed the offence through a prior conspiracy led by him with Sri.K.AtchanNaidu, A-1, A-2 and others. Sri.N.Chandrababu Naidu, with criminal intention, led the AP cabinet, approved the cost estimation of Siemens project received through A-1, without any assessment, verification, proper DPR and evaluation. The said cost estimation was received by A-1 from A-6 prepared by A-6 and his team, others. In March 2015, Sri.N.Chandrababu Naidu also approved the release of Govt contribution of Rs.370 Crores to M/s DesignTech through his cabinet and allotted the Siemens project on nomination basis and without any tender process. The accused, Sri.N.Chandrababu Naidu, while holding office as public servant, conspired, colluded with Sri.K.AtchanNaidu and others and with criminal intention, released the Govt funds through the accused without verifying the contribution of Technology partners, allowed other accused to do fraudulent and illegal acts, committed misappropriation of Government funds to the tune of around Rs.279 Crores which were entrusted to them

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or under their control by corrupt and illegal methods. Sri.N.Chandrababu Naidu by abusing his official position, fraudulently committed criminal breach of trust with a common intention, caused wrongful loss to the Government exchequer. Sri.N.Chandrababu Naidu ,through A-1, allowed other accused and others to divert APSSDC funds by using fake invoices as genuine one for purpose of cheating through the shell, defunct companies without providing materials/services to the APSSDC-Siemens project by the M/s DesignTech, by conspiring, colluding and intentionally co-operating in the commission offence with several acts of by the concerned Directors of companies and private persons. Sri.N.Chandrababu Naidu reviewed the Siemens project, but he intentionally did not verify about 90% contribution by the Technology partners to do favour to the accused.

H. Reason for the arrest and requirement of custodial interrogation:

For an expenditure of about Rs. 550 Crores per cluster (Rs 3300 crores estimated value, overall), 10% of the cost had to be contributed by the Government of Andhra Pradesh / APSSDC. From the narration of the G.O.Ms.No.4, the release of monies proportionately ought to coincide with the timeline of the establishment of the clusters. However, the following is the basis for conferring undue unlawful gain to the private industry, more particularly, M/s Designtech, as under:

i) Even before a rupee was spent by M/s SISW and M/s Designtech towards the establishment of the 6 clusters, the hundred percent liability undertaken by the GoAP/APSSDC amounting to Rs.371 crores, which would be the overall 10% of the project value committed to by the government, during or after establishment of the 6 clusters of CoEs was given as an advance.

ii) By reason of this windfall, contrary to the spirit and letter of the G.O.Ms.No.4, with recourse to the M.O.U., the wrongful loss to the public exchequer and the wrongful gain to the private individual occurred as under:

- a. It is only with the government funds, that the private firms had chosen to develop the 6 clusters of CoEs at 6 places.
 - b. Investigation so far revealed that the total money expended by the private entities towards these 6 clusters is only out of the monies advanced by the GoAP/APSSDC as above, totalling to Rs.371 crores.
- iii) Investigation further revealed that a large part of the money so spent was diverted to shell companies based on fake invoices, without the actual delivery or sale of the purported items transacted under the invoices.
- iv) While a part of the Rs. 371 crores was spent for the creation of the 6 CoE clusters, which itself is a departure from G.O.M.S.No.4, the rest of the monies were routed and rerouted through shell companies. Investigation revealed that **Sri.N.Chandrababu Naidu and the Telugu Desam Party were the end beneficiaries of the misappropriated money.**
- v) "Sri.N.Chandrababu Naidu (A-37) being the Principal conspirator" for the creation of a step-down entity and being the "only and unilateral decision maker", in respect of all the transactions concerning the further transfer of money, he is the "principal architect" of the entire scheme, the intent as it transpires now was to transfer the public monies to the credit of a private entity disproportionately and without reference to the G.O.M.S.No.4 issued and allowing the money to be defrayed through shell companies, for private gains of individuals which have now being spoken to (Allied Computers International Ltd, Knowledge Podium, etc.) The departure in the administrative decision-making process was oriented specifically to achieve this objective where the monies routed through shell companies went in to the pockets of Mr. Vikas Khanvilkar, etc and the monies actually spent were not by Siemens or Designtech, but the government monies spent, therefor. So, there is a loss of money to the public exchequer and there is a conferral of gains to private entities.

vi) The notefiles regarding the subject matter, clearly indicate that in spite of the objects to the release of the funds as contemplated under the tripartite agreement, by the relevant government officials, the funds were released as per the instructions of Sri.N.Chandrababu Naidu. The said note files are borne out by the affirming statements of the witnesses including under Section 164 Cr. P.C.

vii) Personal and exclusive knowledge of all the preparatory transactions leading to the issuance of the G.O, and the M.O.U., to the exclusion of any other Govt., functionary makes "N.Chandrababu Naidu the principal possessor of information" relating to the subject matter, leading to these modus – operandi.

viii) During the course of investigation, from credible sources, copy of a Notice was obtained -with DIN and Notice number: ITBA/AST/F/153C(SCN)/2023-24/1054891034(1), dated 04/08/2023 issued and digitally signed by Sri Dondapati Venkata Harish, IRS of the Central Circle-2(4) Hyderabad of the Income Tax Department to Nara Chandrababu Naidu.

It revealed that a system existed for generating bribes for Sri. Nara Chandrababu Naidu, from the various work contracts issued by the Government of Andhra Pradesh in the period 2017-2019. There was a modus operandi of generation of cash through bogus invoices for procurement of works, goods and services by the subcontractors of the main contractors executing the work. The cash was handed over to the persons and at the places as directed by the Sri. Nara Chandrababu Naidu, by the representatives of the companies executing the works.

As per the investigation carried out by the Income Tax Department, one of the main persons involved in this modus operandi is, Sri. Yogesh Gupta (A-22 involved herein). He, along with one Sri Manoj Vasudev Paradasany, representing M/ s Shapoorji Pallonji Ltd, M/s L&T Ltd, etc was involved in

generating cash from the funds drawn from the public exchequer, through fake invoices, as was done in the instant case also.

The cash was handed over to

1. Sri. Pendyala Srinivas, an employee of the Government of Andhra Pradesh, who was working as the Personal Secretary to Sri. N. Chandra Babu Naidu, the then Chief Minister.

2. Sri. Kilaru Rajesh, who is a close associate of the Sri.N.Chandrababu Naidu and Nara Lokesh, who is the son of Sri.N.Chandrababu Naidu, the then MLC and a Minister in the Government of Andhra Pradesh, during the above said period.

For getting the certified copies of the evidences from the Income Tax Department, a letter was addressed to the Chairman, Central Board of Direct Taxes, New Delhi and the obtaining the material is pending.

ix) In the meantime, notices under section 160 CrPC, dated 5th September, 2023, were sent to

1. Sri. Manoj Vasudev Paradasany,
2. Sri. Pendyala Srinivas, requesting them to join the investigation.

However, without acknowledging the receipt of the above said notices, Sri Manoj Vasudev Paradasany left for UAE from Mumbai, by a flight at 19:10 hrs on 5th September, 2023 and Sri Pendyala Srinivas left for USA on 6th September, 2023 without the prior permission of the Government of Andhra Pradesh, as mandated by the service rules for a serving civil servant.

This indicates that both of them absconded to avoid being questioned by the Investigation Officer and more particularly to shield the illegal activities of the Sri.N.Chandrababu Naidu and his family members. It is learnt from credible sources that Sri.N.Chandrababu Naidu facilitated the absconding of

the above two named individuals in order to frustrate the further course of investigation into the subject matter.

x) The end use of the monies which were apparently being drawn out as cash and parked with Vikas Khanvilkar, etc. are required to be ascertained as it is now revealed that the principal architect of all these activities (Sri.N.Chandrababu Naidu) was doing all this to secure the funnelling of the funds back through the shell companies to himself. He has to be confronted with Mr.Suman Bose, Mr.Vikas Khanvilkar, the Directors of the shell companies and other principal co- conspirators such as Sri. Sanjay Daga, Sri. Ghanta Subba Rao, Dr. K. Lakshminarayana, etc for eliciting further details about the modus operandi. Investigation revealed that Nara Chandrababu Naidu his family members and the Telugu Desam party were the end beneficiaries for the money thus misappropriated.

xi) Disappearance of the key note files and the principal beneficiary of the same, are the Sri.N.Chandrababu Naidu and Sri.K.AtchanNaidu, Sri.Ghanta Subba Rao and Dr.K.Lakshminarayana. The disappearance of evidence and the disappearance of the key persons believed to be connected with the crime, clearly evidences the role of Sri.N.Chandrababu Naidu in prevailing upon the concerned from disclosing facts relevant to investigation.

Xii) The reason for the present proceedings is the compilation of all the statements which have been made including the recently recorded statement under section 164 CrPC of Sri Sirish Shah(accused) in relation to the journey of funds, it became necessary that Sri.N.Chandrababu Naidu being out any further, hampers the disclosure of information during the investigation.

xiii) The offences are punishable for more than 10 years of imprisonment. The nature of offence being a financial misdemeanour by public officials with a deep-rooted conspiracy lying behind, it is necessary for the investigation agency to interrogate the accused (Sri.N.Chandrababu Naidu) to unravel all the elements of the deep-rooted conspiracy which has been hatched to secure

the Private gain to the named individuals therein, as also the departure from the official business. Such a financial fraud can be unearthed only after the investigation agency secures the information which it seeks to, in getting all the witnesses to confront against this particular accused (Sri.N.Chandrababu Naidu). The conclusion of investigation is not possible unless Sri.N.Chandrababu Naidu is arrested.

xiv). Sri.N.Chandrababu Naidu was arrested in due compliance with the procedure prescribed under Cr.P.C. The I.O applied his mind and was bonafide satisfied, that the arrest of the accused is necessary in the light of the above circumstances, to complete the investigation, and to ensure that the accused does not further cause disappearance of the evidence or prevail upon other persons connected with the case, to dissuade from participating in the investigation.

xv. It is also necessary to state that the accused herein is accused No. 1 in Cr. No. 16/22 dt. 9.5.2022 registered by the CID, A.P. The subject matter of investigation is a similar modus operandi adopted by the accused while performing duties as a public servant as the Chief Minister of the State at the relevant point in time. Investigation in the said case disclosed that the accused with another Minister in the government in collusion with other public servants and private persons was involved in the process of finalisation of designs of IRR and Zonal Development Plans to show undue favour in order to cause wrongful gains to certain private individuals, such as Sri Lingamaneni Ramesh, Heritage Foods Limited, being a company managed by the family members of the accused, etc. It is disclosed during the course of investigation that the Inner Ring road alignment of the capital city was designed in a systematic manner, starting with the award of work of designing the draft perspective plan and Master Plan of the capital city to Surbana Consultants International Private Limited on nomination basis. The designs of the Master Plans were closely guided by the Sri. N.Chandrababu Naidu along with another Minister Sri Narayana for MAUD. The alignment of IRR underwent

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much iteration to protect the land owned by various accused in the case, including M/s. heritage Foods Private Limited, Mr. Lingamaneni Ramesh, and various other beneficiaries who are closely linked to Mr. N. Chandrababu Naidu. Each of these decisions was organised to cause direct benefit to the said private entities while Mr. Naidu, in a quid pro arrangement with such entities, secured benefits, including the house given free of cost to him by Mr. Lingamaneni Ramesh. The accused during the relevant point in time, actuated by the design to cause personal gain to private entities by virtue of the official decisions, is habituated to cause loss to the State by organising taking decisions in Government accordingly.

xvi) Nara Chandra Babu Naidu was Member of Legislative Assembly for Kuppam Assembly Consequence for the period 2014 to 2019 and he was Chief Minister of Andhra Pradesh during the said period. Hence he was a Public Servant as per section 2 of Prevention of Corruption Act, 1988 for the said period.

J. Investigation reveals that, a prima-facie case was established for the offences U/s 120(B), 418, 420, 465, 468, 471, 409, 201, 109 r/w 34 & 37 IPC & Section 12, 13(2) r/w 13(1) (c) and (d) of Prevention of Corruption Act, 1988 against Sri Nara Chandra Babu Naidu (A-37). In this regard accused adding memo was filed before the Hon'ble Court for taking further action in the matter.

K. Arrest of the accused:

The offences are punishable for more than 10 years of imprisonment. Though the A-37 is not a flight risk, the nature of offence being a financial misdemeanor by public officials with a deep-rooted conspiracy lying behind, it is necessary for the investigation agency to interrogate the accused (A-37) to unravel all the elements of the deep-rooted conspiracy which has been hatched to secure the Private gain to the named individuals therein, as also the departure from the official business. Such a financial fraud can be unearthed only after the investigation agency secures the information which

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it seeks to, in getting all the witnesses to confront against this particular accused (A-37).

On information receiving about the accused- A-37, DSP, EOW-II, CID, AP visited the staying place of the accused Sri Nara Chandra Babu Naidu and identified him as the accused (A-37) in this case confirmed his (A-37) identification.

The accused Sri N.Chandra Babu Naidu (A-37) got informed by the Dy.Suptd.of Police, CID, EOW-II, A.P. u/s 157 (1) Cr.P.C., as a prima facie case was made out against him and the evidence came to light and there are reasonable grounds that the accused-37 (Sri N.Chandra Babu Naidu) has committed the offence and involved in misappropriation of Rs.279 crores in the project by diverting to shell companies and there is necessity of further custodial interrogation. The offence committed by the A-37, attract the above said sections of different Acts of laws of ten years of imprisonment.

Hence, the accused Sri N.Chandra babu Naidu (A-37) was arrested at 06:00 hrs on 09.09.2023 at RK function hall, Gnanapuram, H/s Moolasagaram, Nandyal town after explaining the reasons of his arrest by contemplating the provisions of law. The arrest information was given to his associate Sri Kalava Sreenivasulu, Polit Bureau Member, TDP Party, Anantapur U/s 50(2) Cr.P.C. After attending all the legal formalities u/s 50(i), 50(ii) Cr.P.C., Sri Nara Chandrababu Naidu (A-37) was taken into custody. During arrest, the team of medical officers examined the accused at Arrest place. Later the accused was brought to the office of EOW-2, CID, AP, Tadepalli around 17.00 hrs on 9.9.2023 and kept under the surveillance of the escort officers. The arrest of the accused A-37 was intimated to the Honble Speaker of Legislative Assembly of Andhra Pradesh.

On 10.09.2023, the accused A-37 was sent to Medical examination and examined by the doctors of the GGH, Vijayawada and obtained medical certificate.

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L. Behaviour subsequent to arrest:

Sri.N.Chandrababu Naidu was placed under arrest in Nandyal at 0600 hrs on 09/09/23 at RK function hall, Nandyal town of Nadyal district. He was informed that a helicopter was paid for and hired to transport him from the Kurnool airport to Gannavaram airport, owing to the security categorisation he had. However, he refused to utilise the services of helicopter and insisted upon travelling by road. Consequent to this, when Sri.N. Chandrababu Naidu was being transported from Nandyal to the CID office in Tadepalli, in Guntur Dt, in response to the calls for protests issued by the Telugu Desam Party, the convoy was obstructed by use of violent force by the supporters of Sri. N. Chandrababu Naidu. This is a clear indicator of the attitude of the accused in intimidating the Law enforcement authorities and witnesses by virtue of his position as the head of a political party, to scuttle the ongoing investigations.

M. Requirement of judicial custody:

Non-cooperation of the accused: After reaching the office of the CID (EOW-2), the accused was questioned about his role in the offences, in the presence of two mediators. He was given breaks as per his requests, to consult a legal counsel, to meet the members of his family, to have food and refreshments, etc. He was asked questions based on the note files which form part of the evidences in this case diary. But, to all the questions, he was non-cooperative and replied vaguely that he could not recollect the facts. In this regard mediator report was drafted in the presence of mediators duly attested by him.

In this case, the APSSDC funds diverted by DesignTech through PVSP (A-5) to various shell, inoperative, foreign companies (Singapore and London based), among these diversion to some companies was established, regarding some companies they are winded up, not tracing, not responding and investigation is under process.

As the investigation is under progress and there is need of custodial interrogation of the accused A-37 (N.Chandra Babu Naidu) is necessary and the following reasons are for arresting the accused-37.

- 1) Other official witnesses are to be examined. Besides the examination of crucial official/private witnesses I have to secure the relevant records from shell companies and examination some of the persons related to the companies, have to verify the huge volume of documents of shell companies to verify about the incriminating documents.
- 2) The bank accounts, other transactions details of Sri.Nara Chandrababu Naidu (A-37) have to be ascertained, further examination is required to establish how the amount has been routed/layered/received by the accused and how the amount was got back from the shell companies.
- 3) In view of economical offence orchestrated by the accused which occurred in sequence of time and in calculated manner, in view of hindrances created by the men of the accused, and on account of non cooperation of accused his intrinsic examination of could not be completed within 24 hours from the time of arrest.
- 4) Hence he is to be examined thoroughly and intrinsically on various aspects about the persons who met him, method adopted for funds diversion, records created and processed, rooting of funds and screening of funds.
- 5) The plan and method articulated by the accused A-37 with others in the deep rooted conspiracy, diversion, rooting and screening of funds and other facts which are within the knowledge of the accused are to be elicited.
- 6) The accused A-37 is an influential person having intimidation tactics. Because of influence and intimidator tactics adopted by the accused A-37 by direct and indirect means many difficulties have been faced and the evidence collected so far clearly established the role of the accused. He (A-37) is not co operating with investigation and much of information within the exclusive knowledge of the accused A-37 is to be elicited. Hence his (A-37) custodial examination is very much required.
- 7) To unravel the larger conspiracy of siphoning off funds of APSSDC in execution of Skill Development Project and the involvement of Govt. officials.

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- 8) Since the issue involves misappropriation of at least Rs.279 crores in the Government project by routing back through shell companies and the trail of funds to be unearthed and the money has to be recovered.
- 9) The accused A-37 Sri.Nara Chandrababu Naidu (A-37) conspired with A-1, A-2, A-38, Suman Bose (A-6) and Vikas Khanvelkar (A-8) for diverting the funds issued fake invoices and routed the money with accommodation entries in the shell companies. The role of others in diversion of the funds is also to be established by custodial examination.
- 10) The offences involve Acts and sections of law attracting ten years of imprisonment.
- 11) The accused had strong ties with the Government machinery and highly influential person and are likely to intimidate other witnesses and destroy the evidence available in other places.
- 12) To prevent the accused from committing any further offence.
- 13) For the proper investigation of the case.
- 14) To prevent the accused from causing the evidence of the offence to disappear or tampering with such evidence in any manner.
- 15) To prevent the accused from making any inducement, threat or promise to the witnesses acquainted with the facts of the case so as to dissuade from disclosing such facts to the Court or to the Police Officer.
- 16) Unless the accused is arrested, his presence in the court whenever required cannot be ensured.
- 17) The gravity of a case is high magnitude, huge amount of government funds were misappropriated.


The arrested accused Sri.Nara Chandrababu Naidu (A-37) is being produced before the Hon'ble ACB Court with the escort Sri Ch.Sambasiva Rao, Inspector of Police along with HC.308 Sri P.Adireddy, PC.6523 B.Sambasiva Rao, PC.3943 Sri P.Srinivisa Rao and submitting remand report and other necessary documents. At the time of his (A-37) arrest, all necessary precautions were taken with respect to Covid-19 issued by Govt. from time to time.

138²⁸PRAYER

In the light of facts and circumstances of the instant case, this Hon'ble Court may be pleased to:

- i. To pass an order granting 15 days judicial custody u/s 167 Cr.P.C. to the accused Sri.Nara Chandrababu Naidu (A-37)
- ii. To pass such other Order or further Orders as this Hon'ble Court may deem fit and proper in the interest of justice.

Be pleased to consider.


(M.DHANUNJAYUDU)
Dy. Supdt. Of Police,
EOW-II, CID, AP,
Mangalagiri
Dt. 10.09.2023

Enclosures for Arrest of A-37 and its connected documents:

SL. No.	Description of Document	Date of Documents	Page No.	
			From	To
1	Copy of Memo Dt.09.12.2021 of Addl.DG of Police, AP COD CID	09.12.2021	1	-
2	CD Part I dated 09.12.2021	09.12.2021	2	75
3	Acknowledgement copy of FIR	09/09/2023	72	78
4	Accused adding Memo dtd:08-09-2023	08/09/2023	79	86
5	CD dated 08/09/2023	08/09/2023	87	97
6	Arrest CD Dt 09/09/2023	09/09/2023	98	116
7	Mediators Report dt 09.09.2023	09/09/2023	117	119
8	Handing/taking over of PP-02	09/09/2023	120	-
9	Section 50 (I) & (II) CrPC notices	09/09/2023	121	122
10	Arrest Memo (1 page)	09.09.2023	123	-
11	Aadhar Card No.3003 0068 8099	-	124	-
12	Copy of Arrest information submitted to the Hon'ble Speaker, APLA, Velagapudi, Amaravathi.	09.09.2023	125	-
13	MoU/Agreement between APSSDC - Siemens - Design Tech	June-2015	126	135
14	G.O.Ms.No.47 Higher Education (EC.A2)	10.09.2023	136	137
15	G.O. Ms No.4, SDE&I Dept., Approval (MoU)	30.06.2015	138	140
16	Siemens Internal Investigation Report	12/04/2019	141	153
17	DGGSTI Report	17.09.2021	154	271
18	Sri J.Y.R.Krishna Rao IAS (Retd.) - 161(3) CrPC statement	07/04/2022	272	274

19	ED Remand Report dtd.04.03.2023 in case No. ECIR/HYZO/03/2022.	04.03.2023	275	293
20	SEBI Report about Shell companies	07.07.2017	294	305
21	Gmail from Subbarao Ghanta [sghanta@gmail.com] to Satheesh Kurup [satheesh.kurup@siemens.com]	16.03.2015	306	-
22	Complaint/information by SDRI on DGGST	31.03.2021	307	-
23	Notice to Sri N.Chandrababu Naidu from IT Department, Hyderabad.	11.08.2023	308	352
24	Hon'ble High Court of AP Justice Bhanumathi madam CrI.R.C.No.203/2023 order copy	26.03.2023	353	380
25	Hon'ble High Court of AP order in CrI.P.No. 3013/2023 by Justice K.Suresh Reddy (bail dismiss)	31.07.2023	381	390
26	Hon'ble ACB Court order on the anticipatory bail petition of Mr. G.V.S.Bhaskar in CrI.M.P.No. 318/2013 (bail dismiss)	29.03.2023	391	402
27	Forensic Audit Report of APSSDC Siemens Project		403	432
28	AP Cabinet resolution No.33/2015	16.02.2015	433	435
29	Panchanama dtd.15.03.2022 regarding Cost estimation mails	15.03.2022	436	439
30	GO.Rt.No.2226 & Note File of Inter cadre deputation and posting of U.Aparna, IAS	17.07.2015	440	448
31	Letter to CBDT for copies of documents in the case of Manoj Vasudev Pardhasany	--	449	451
32	Email dtd.27.04.2015 sent by GVS Bhaskar to Suman Bose containing photo with CM.	27.04.2015	452	454
33	Principal Accountant General (Audit) report	09.06.2022	455	471
34	Email dtd.26.05.2015 sent from Satheesh Kurup to Suman Bose	26.05.2015	472	475
35	IT Department Assessment Order of DesignTech company for AY 2017-18	23.06.2021	476	521
36	Remand Report of Ghanta Subbarao in Cr.No.29/2021 of CID PS, AP	13.12.2021	522	533
37	Remand Report of Suman Bose, Vikas Khanvelkar, Mukul Agarwal in Cr.No.29/2021 of	12.12.2021	534	547
38	Remand Report of Shirish Shah in Cr.No.29/2021 of CID PS, AP	15.12.2021	548	561
39	Remand Report of Suresh Goyal in Cr.No.29/2021 of CID PS, AP	18.02.2022	562	573
40	Remand Report of Vipin Sharma and Neelam Sharma in Cr.No.29/2021 of CID PS, AP	24.08.2022	574	591
41	Remand Report of GVS Bhaskar in Cr.No.29/2021 of CID PS, AP	09.03.2023	592	612
42	Medical certificate of A.37	10.09.2023	613	614
43	Finance Department note file	-	615	767

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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

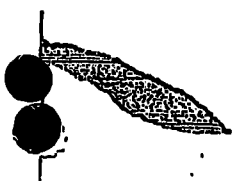
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physically, but mentally harassed by the police personal throughout. Accused no.37 stated that he was arrested in this case without any material and that he was interrogated by DIG who was not authorized to investigate the case and that the police 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



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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 Cri.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

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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

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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

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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.



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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

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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

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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.

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- 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, Entrepreneurship and Innovation Department (in short SDE & I) and as a Ex-officio Secretary to Chief Minister, AP by

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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

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(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 ,

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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**

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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 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

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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.

Loganathan
SPECIAL JUDGE FOR SPE & ACB CASES
-cum-III ADJ, VIJAYAWADA.

Ramesh Karthikeyan

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P-4



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

**MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE**

:PRESENT:

THE HONOURABLE SRI JUSTICE D RAMESH

CRIMINAL PETITION NO: 7263 OF 2021

Between:

Ghanta Subba Rao, S/o Venkata Ramaiah, aged about 62 years, R/o Dhayanahitha High School Compound, Shabad Village and Mandal, Ranga Reddy District, Telangana State.

...Petitioner/Accused No.1

AND

The State of Andhra Pradesh, Rep. by its Public Prosecutor, High Court of AP at Amaravati (Through CID AP).

...Respondent/Complainant

Petition under Sections 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in Criminal Petition, the High Court may be pleased to enlarge the petitioner on bail in Crime No.29/2021 on the file of CID P.S., Andhra Pradesh, Amaravati, Mangalagiri, Guntur District.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri Srinivasa Rao Bodduluri, Advocate for the Petitioner and Special Public Prosecutor for CID for the Respondent, the Court made the following;

ORDER:

"Learned standing counsel appearing for the respondent/State has filed a preliminary report along with annexure and after hearing the arguments of the learned standing counsel, when there is no specific reply to the contentions raised by the learned senior counsel appearing on behalf of the petitioner and also queries raised by the Court, he requested some more time to file detailed counter with regard to the preliminary investigation.

Accordingly, two (02) weeks time is granted.

Learned senior counsel appearing on behalf of the petitioner submitted that there are no specific averments either in the complaint or in the preliminary report with regard to siphoning of the funds by the petitioner and there is no material to show that the petitioner is involved in any financial issues with regard to the Corporation.

Considering the said submissions, petitioner/A1 is ordered to be enlarged on interim bail on condition of his executing a self bond for Rs.2,00,000/- (Rupees two lakhs only) with two sureties each for a like sum to the satisfaction of the III Additional Sessions Judge cum Special Judge for SPE & ACB Cases, Vijayawada, Krishna District. The petitioner/A1 shall report before the investigating officer on every Saturday from 10.00 A.M to 01.00 P.M. and the petitioner/A1 is also further directed to appear before the investigating officer whenever required and the

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investigating officer shall give 24 hours notice for the appearance of the petitioner/A1 whenever required.

Post after two (02) weeks."

//TRUE COPY//

Sd/-M.Suryanadha Reddy ✓
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The III Addl. Sessions Judge-cum-Special Judge for SPE & ACB Cases, Vijayawada, Krishna District.
2. The Superintendent, Sub Jail, Vijayawada, Krishna District.
3. One CC to Sri. Srinivasa Rao Bodduluri, Advocate [OPUC]
4. Two CCs to Special Public Prosecutor CID, High Court of AP [OUT]
5. One spare copy.

MSB

Ramesh Kandula

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HIGH COURT

DR,J

DATED:20/12/2021

ORDER

POST AFTER TWO (02) WEEKS

CRLP.No.7263 of 2021

DIRECTION



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
MONDAY, THE SEVENTEENTH DAY OF JANUARY,
TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE D RAMESH
Crl.P. Nos. 7265, 7339 OF 2021 & 31 of 2022



Crl.P.No: 7265 of 2021:

Between:

Mukul Chandra Agarwal, S/o. Dinesh Chandra, 53y, Occ. Partner, Cadence Partner LLP, Former Employee, PVSP IT SKILLER Enterprises Pvt Ltd, Later changed to M/s. Skillar Enterprises Pvt Ltd, r/o. Minifarm-10, Chattarpur, Mandir Road, Chattarpur, New Delhi.

...Petitioner/Accused No.10

AND

The State of AP, Crime Investigation Department (CID), Rep by the Dy. Superintendent of Police, CID, Economics Offices Wing-II, Andhra Pradesh at Mangalagiri, Rep. by the Special Public Prosecutor for CID, High Court of AP, at Amaravathi.

.....Respondent

Petition under Sections 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memo of grounds filed herein, the High Court may be pleased to release the petitioner/Accused No.10 on bail in Crime No. 29 of 2021 on the file of the Crime Investigation Department (CID), Economic Offence Wing-II, CID, Andhra Pradesh, at Mangalagiri.

The petition coming on for hearing, upon perusing the Petition and memo of grounds filed herein and upon hearing the arguments of M/s Devi Subhashini Anne Advocate for the Petitioner, and of Public Prosecutor for Respondent, the Court made the common order

Crl.P. NO: 7339 OF 2021.

Between:

Soumyadri Shekhar Bose @ Suman Bose, aged 53 years S/o. Niladri Shekhar Bose, R/o. MA-2/2, 3B, Garden Estate, Gurgaon-102022.

Petitioner/Accused No.6

AND

The State of Andhra Pradesh, Rep. by the Deputy Superintendent of Police, Crime Investigation Department, Economic Offences, Wing-II, Andhra Pradesh, Mangalagiri.

Respondent/Complainant

Petition under Sections 437 & 439 of Cr.P.C, praying that in the circumstances stated in the affidavit filed in support of the Criminal Petition, the High Court may be pleased to direct the respondent to enlarge the petitioner/accused No.6 on bail in FIR No.29 of 2021, on the file of the PS., CID Amaravati Mangalagiri Guntur District.

The petition coming on for hearing, upon perusing the Petition and memo of grounds filed herein and upon hearing the arguments of M/s Jyothi Anumolu, Advocate for the Petitioner and of SC -cum- Spl. PP, for the Respondent, the Court made the common order:

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Crl.P. No. 31 OF 2022:

Between:

Sri Vikas Vinayak Khanvelkar, (But wrongly shown as Kahnvelkar) S/o Vinayak, R/o Kalvalya
464 Mahatma Cooperating Housing Society, Kothrud, Pune, Managing Director of Design Tech Systems Limited, Pune, Maharashtra

Petitioner/Accused No.8

AND

The State Of Andhra Pradesh, Rep by its Public Prosecutor Through DY Supdt of Police, Crime Investigation Department, Economic Offences Wing-II, Andhra Pradesh Mangalagiri

Respondent/Complainant

Petition under Sections 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memo of grounds filed herein, the High Court may be pleased to enlarge the petitioner on bail in Crime No 29/2021 dt 9.12.2021 filed by Crime Investigation Department Economic Offence Wing-II CID, Andhra Pradesh.

The petition coming on for hearing and upon perusing the petition and memo of grounds filed herein and upon hearing the arguments of Sri V. Nitesh, Advocate for the Petitioner and of Sri T.M.K. Chaitanya, Spl. SC for CID for the Respondent, the Court made the following Common

ORDER

Ramesh Kanchi

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THE HONOURABLE SRI JUSTICE D.RAMESH

CRIMINAL PETITION Nos.7265, 7339 of 2021 and 31 of 2022

COMMON ORDER:

The crime number and the issue involved in all the three criminal petitions are one and the same and hence all the three criminal petitions are being disposed of with a common order.

Cr.P.No.7265 of 2021

This petition is filed under Section 437 and 439 of Code of Criminal Procedure, 1973 (for short "Cr.P.C") seeking regular bail to the petitioner/A10 in connection with Crime No.29/2021 on the file of Crime Investigation Department (CID), Economic Offence Wing-II, CID, Andhra Pradesh, at Mangalagiri, Guntur District, wherein the petitioner is alleged to have committed the offences punishable under Sections 120-B, 166, 167, 418, 420, 465, 468, 471, 409, 201, 109 r/w 34 & 37 IPC and sections 13(2) r/w 13(1)(c) of Prevention of Corruption Act, 1988.

3. Heard Sri V.Venkata Ramana, learned Senior Counsel appearing on behalf of Sri V.Venkata Nagaraju, learned counsel for the petitioner/A10.
4. Brief facts of the case are that pursuant to the complaint dated 07.9.2021 addressed by the Chairman, Andhra Pradesh State Skill Development Corporation, Andhra Pradesh (for short APSSDC) to the Additional Director General of Police, Crime Investigation Department, Andhra Pradesh at Mangalagiri, the present crime was registered by the respondent police on 09.12.2021. In the said written complaint, it was alleged that the Government of Andhra Pradesh has issued orders vide G.O.Ms.No.47 (HE) (EC.A2) Department dated 13.12.2014 incorporating the APSSDC. The object of the project is to impart hi-end technology to the trainers. SIEMENS offers training program in collaboration with various State Governments. In the negotiations, the State Government has agreed to establish SIEMENS centers of excellence, technical skill development

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institutions and skill development centers. Six such clusters have been formed at the inception at cost of Rs.546,84,18,908/- 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.55crores. A memorandum of agreement (for short MOA) has been entered into between APSSDC on one hand and SIEMENS on the other. SIEMENS is a combination of M/s. SIEMENS Industry Software (India) private limited and M/s. Design Tech Systems Private Limited.

5. A tax investigation by the Additional Director General, GST, Intelligence, Pune in respect of the claims of CENVAT credited by M/s. Design Tech Systems Private Limited and M/s Skillar enterprises India private limited led to huge financial scam involving crores of rupees by M/s. SIEMENS Industry Software India Private Limited and M/s. Design Tech Systems Private Limited. As per the MOA, the 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 the Additional DGGI, Pune concluded that both the service provider and service receiver had taken contradictory stands regarding the nature of service regarding the nature of services. An in-depth scrutiny into the records by the ADGGI revealed that training software development including various sub-modules shown as supplied by Skillar to design tech were purchased by Skillar from...

- i) M/s Allied Computers International (Asia) Ltd., Mumbai (in short M/s.ACI).
- ii) M/s. Patrick Info services private limited (M/s I.T.Smith solutions private limited).
- iii) M/s. Inweb Info services Private limited all based at New Delhi.
- iv) M/s Arihanth Traders, New Delhi.
- v) M/s G.A.Sales Private Limited, New Delhi.

The allegations are that all the above companies are shell/defunct companies and they were issuing invoices without providing any services and further alleged that all these companies have formed into a cartel to siphon

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the public funds running into crores of rupees. Basing on the said report, the Managing Director of APSSDC has lodged a report with CID through his written complaint dated 07.9.2021.

6. Basing on the complaint, the respondents have registered F.I.R. vide crime no.29/2021 dated 09.12.2021 with the following contents:

I would like to bring to your notice that the Government has issued order vide G.O.Ms.No.47 (HE) (EC.A2) Department dated 13.12.2014 incorporating the APSSDC.

The object of the project/scheme is to impart hi-end technology to the trainers. APSSDC has deputed a team to visit SIEMENS centers of excellence already established in Gujarat and to submit a report. SIEMENS offers training program in collaboration with various State Governments. The State Government has agreed to establish 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 of one center of excellence, five technical skill development institutions and skill development centers. Six such clusters have been formed at the inception at cost of Rs.546,84,18,908/- 90% and a government share thereof is 10% Ks.55crores.

A MOA has been entered into between APSSDC on one hand and SIEMENS on the other. SIEMENS is a combination of M/s. SIEMENS Industry Software (India) private limited and M/s. Design Tech Systems Private Limited. The MOA is in furtherance of G.O.Ms.No.4, dated 30.6.2017 of skill development enterprises and innovation (Skills) Department.

A tax investigation by the Additional Director General, GST, Intelligence, Pune in respect of the claims of CENVAT credited by M/s. Design Tech Systems Private Limited and M/s Skillar enterprises India private limited led to unearthing a huge financial scam involving crores of rupees by M/s. SIEMENS Industry Software India Private Limited and M/s. Design Tech Systems Private Limited. The funds release to Andhra Pradesh State Skill Development Corporation, Vijayawada (shortly referred to as APSSDC).

As per the MOA, the Design Tech has to provide training software development including various sub modules designed for high end software for advance manufacturing CAD/CAM. The MOA does not contemplate to the contract. However, Siemens and designtek had sub-contracted a large part of the work to M/s. SIEMENS Enterprises private limited, New Delhi, with self-centric Solomon's wisdom. As a matter of fact, Skillar was established after DesignTech had entered into a contract with APSSDC. It is the claim of Designtek that Skillar has provided training software development including various sub-modules designed for high and software for advance manufacturing CAD/CAM. Skillar has directly supplied the same to the Skill Development Centers in Andhra Pradesh. Designtek further claims that royalty and subscription were paid to Skillar since they have developed the software. When tax authorities confronted Skillar, Skillar has claimed that no technical work has been subcontracted and the training software development including various sub-modules provided in the invoices. Thus, the Addl. D.G.G.I., Pune concluded that both the service provider and service receiver had taken contradictory stands regarding the nature of services. An in-depth scrutiny into the records by the ADGGI revealed that training software development including various sub-modules shown as supplied by Skillar to Designtech were purchased by Skillar from ...

- i) M/s Allied Computers International (Asia) Ltd., Mumbai (in short M/s.ACI).*
- ii) M/s. Patrick Info services private limited, M/s I.T.Smith solutions private limited.*
- iii) M/s. Inweb Info services Private limited all based at New Delhi.*
- iv) M/s Arihanth Traders, New Delhi.*
- v) M/s G.A.Sales Private Limited, New Delhi.*

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 turning to crores of rupees. The Addl. Director General, DGGSTI, Zonal Unit, Pune observed that no services were delivered by Skillar to DesignTech in their invoices depicting training software development including various sub-modules and royalty and subscription thereof. 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 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

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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 policies, flaws in systems. Flaws in utilization of funds and analysis of various spending practices and to find out irregularities, misstatements, governance procedure, 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.

M/s. SIEMENS and Designtech have to oversee the functions of the clusters and their maintenance. Instead of doing so both of them swindled crores of rupees in a dubious manner. Their acts affected the marrows of economic health of the State.

As per the Memo No.143741/skill/2021 dated 11.7.2021 and 04.9.2021, the Managing Director, APSSDC is instructed to lodge a report with Crime Investigation Department to make a detailed probe into the case. I therefore, lodge this report for taking necessary legal action against the above M/s. SIEMENS and M/s Designtech and their bogus shell allies according to law.

7. In the above said F.I.R, the petitioner was shown as A10 and his designation was indicated as Chief Operating Officer, Skillar Enterprises India Pvt. Ltd. (formerly known as PVSP IT Skills Projects Pvt. Ltd.) In fact the petitioner was appointed as financial advisor of M/s. Skillar enterprises India Pvt. Ltd through offer letter dated 01.4.2016 and around June 2017, the designation of the petitioner was changed as Chief Operating Officer for operational convenience. It is stated that the petitioner had stopped attending to the work at Skillar enterprises since October, 2017 on his health reasons and demitted the office from December 2017.

8. The contention of the petitioner in the said criminal petition is that A10 is neither a director/promoter/shareholder nor a key managerial personnel of M/s Skillar Enterprises India Pvt. Limited. Petitioner was a mere employee of the said firm and was never capable or authorized to take any major project related decisions on the project. As per the prosecution case, the petitioner never held any position in the management of M/s. Skillar Enterprises India Pvt. Limited.

9. Learned Senior Counsel appearing on behalf of the petitioner had contended that as shown in the F.I.R. that the petitioner was a chief operating officer is not correct. He never worked as chief operating officer. Initially he was financial advisor. He was never involved in the managerial activities of the Skillar Enterprises India Pvt. Limited. The petitioner was demitted the office in the month of December, 2017 itself on medical grounds

and his medical condition is not good and he is regularly under the medical supervision. He has multiple co-morbidities and is an old patient of hypertension and requires strict and medical supervision. Even according to the medical report dated 04.12.2021 and 03.12.2021 shows that the petitioner is suffering with the following ailments.

- i. Primary hypertension.
- ii. Breathlessness
- iii. Diabetes Type II
- iv. Weight gain
- v. Urine frequency and urinary voiding
- vi. Liver enlargement
- vii. Gall-bladder adequately distended
- viii. B12 deficiency
- ix. Swelling of body
- x. Uric acid.

10. Learned Senior counsel further submitted that even as per the complaint dated 07.9.2021 have only allegations based on the report submitted by the Additional DGGI, Pune and even according to the said report of DGGI, Pune has only with the service provider and service receiver has taken contradictory stands. They have established a shell company and they were issuing invoices without providing any services. Though the allegations in the DGGI report is related to the financial irregularities but there is no mention about the siphoning of the funds. Even according to the complaint, M/s. Siemens and Designtech have to oversee the functions of the clusters and their maintenance. Instead of doing so both of them swindled crores of rupees in a dubious manner. There are no allegations against the petitioner company. However he submitted that even according to the remand report, it shows that the fraudulent acts and violations committed by the petitioner are as follows:

1. *As per the investigation already done by DGGI, Pune, it is revealed that Mukul Agarwal worked previously with Mr. Soumyadri Shekhar Bose @ Suman Bose of SISW in Dassault Systems and SDRC (Structural Development and Research Corporation).*
2. *He came to know that DesignTech and Siemens were going to execute APSSDC project.*
3. *He expressed his desire with Bose and Vikas Khanvelkar to start a company independently and contacted Pravin Bhatia to set up a company and to handle this project for DesignTech and he worked as Chief Financial*

Officer of the PVSP IT Skills. Its name was later changed to Skillar Enterprises Pvt. Ltd.

4. The PVSP/Skillar was created exclusively for execution of APSSDC project for DesignTEch.
5. Mukul Agarwal, Mr. Soumyadri Shekhar Bose @ Suman Bose and Mr. Vikas Vinayak Khanvelkar designed a plan for diversion of the APSSDC funds through various shell companies.
6. Mr. Soumyadri Shekhar Bose @ Suman Bose and Mr. Vikas Vinayak Khanvelkar made various negotiations for rates and deliveries by various vendors to PVSP/Skillar in this project in connivance with Mukul Agarwal.
7. The vendors of PVSP/Skillar were decided by Bose and Khanvelkar prior to allotting the work to Skillar in connivance with Mukul Agarwal.
8. Vikas Khanvelkar of DesignTech made advance payment to PVSP/Skillar.
9. Mr. Mukul Agarwal of PVSP/Skillar used to make payments as per the directions of Mr. Bose and Khanvelkar and the transactions were done on the basis of documents/emails/instructions received from Mr. Bose and Khanvelkar.
10. Thus, Mukul Agarwal, Mr. Bose and Khanvelkar with preconceived mind created and used M/s PVSP/Skillar only for fraudulent transactions and for diversion of APSSDC funds without providing any services by raising bogus invoices in connivance with ACI.
11. It clearly emerges that Mukul Agarwal in connivance with Soumyadri Shekhar Bose @ Suman Bose, Mukul Agarwal, Mr. Vikas Vinayak Khanvelkar and officials of APSSDC has committed fraud and forgery, besides fabrication of books and accounts with mala fide intention to misuse the APSSDC funds.

Learned senior counsel has submitted that the above said allegations in the F.I.R. or in the remand report are inserted the strand and no case is established against the petitioner. He further submitted that the petitioner was arrested on 10.12.2021 and remanded and subsequently, the respondents have filed an application for police custody of the petitioner through CrI.M.P.No.282/2021 on the file of the Special Judge for SPE & ACB Cases-cum-Additional Metropolitan Sessions Judge, Vijayawada. But the said application was considered on merits and dismissed on 22.12.2021 with the following reasons:

Admittedly, the petitioner/CID conducted searches and seized CPU, laptop, cell phones and some documents. Admittedly, the respondent/A10 is neither a director nor promoter of the company and he is only an employee. Admittedly the GST official summoned respondent/A10 several times for enquiry before him he has produced all the available documents with him. The main accused/A1 was ready released on bail as per the bail orders of the Hon'ble High Court. When, the petitioner/CID conducted searches and seized some material before the arrest of the respondent/A10, what else information/material is to be collected from the respondent/A10. Even otherwise, considering the nature of the offence, everything is evidenced by documents and the petitioner/CID can seize the documents from company of the respondent/A10 and for that purpose, there is no need for custodial interrogation of the respondent/A10. The Hon'ble Supreme Court time and again cautioned the subordinate Courts that police custody of accused cannot be granted in a routine manner without there being any valid grounds and purpose. Here, in the case on hand, prior to the arrest and during the course of searches, the petitioner/CID officials interrogated the respondent/A10 and

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since the material was also seized from the possession of respondent/A10, I am of the opinion that there is no need to grant police custody of the respondent/A10. From the aforesaid discussion, I see no grounds to order the police custody of the respondent/A10 as prayed for. Accordingly, these points are answered.

11. In the said circumstances the petitioner is no way concerned with the allegations made in the F.I.R. and remand report and the petitioner is not the director or share holder and he is only an employee and fact remains is that he demitted the office on medical grounds in the year December, 2017 itself. In view of the dismissal of the police custody by the Court below which was unchallenged by the respondents, it clearly discloses that the petitioner is continuing in the judicial remand which is neither required nor serve any purpose.

12. To support his contentions, he relied on the observations made by the Hon'ble Apex Court in a judgment in between **Sunil Bharti Mittal vs. Central Bureau of Investigation**¹ wherein it is recited that:

No doubt, a corporate entity is an artificial person which acts through its officers, directors, managing director, chairman etc. If such a company commits an offence involving mens rea, it would normally be the intent and action of that individual who would act on behalf of the company. It would be more so, when the criminal act is that of conspiracy. However, at the same time, it is the cardinal principle of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides so.

Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. Second situation in which he can be implicated is in those cases where the statutory regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision.

In another judgment of the Hon'ble Supreme Court in between **Arnab Manoranjan Goswami vs. State of Maharashtra and others**² wherein it is recited that:

While considering an application for the grant of bail under Article 226 in a suitable case, the High Court must consider the settled factors which emerge from the precedents of this Court. These factors can be summarized as follows:

¹ (2015) 4 Supreme Court Cases 609

² (2021) 2 Supreme Court Cases 427

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- (i) The nature of the alleged offence, the nature of the accusation and the severity of the punishment in the case of a conviction;
- (ii) Whether there exists a reasonable apprehension of the accused tampering with the witnesses or being a threat to the complainant or the witnesses;
- (iii) The possibility of securing the presence of the accused at the trial or the likelihood of the accused fleeing from justice;
- (iv) The antecedents of and circumstances which are peculiar to the accused;
- (v) Whether prima facie the ingredients of the offence are made out, on the basis of the allegations as they stand, in the FIR; and
- (vi) The significant interests of the public or the State and other similar considerations.

More than four decades ago, in a celebrated judgment in *State of Rajasthan, Jaipur vs Balchand* 39, Justice Krishna Iyer pithily reminded us that the basic rule of our criminal justice system is 'bail, not jail'⁴⁰. The High Courts and Courts in the district judiciary of India must enforce this principle in practice, and not forego that duty, leaving this Court to intervene at all times. We must in particular also emphasise the role of the district judiciary, which provides the first point of interface to the citizen. Our district judiciary is wrongly referred to as the 'subordinate judiciary'. It may be subordinate in hierarchy but it is not subordinate in terms of its importance in the lives of citizens or in terms of the duty to render justice to them. High Courts get burdened when courts of first instance decline to grant anticipatory bail or bail in deserving cases. This continues in the Supreme Court as well, when High Courts do not grant bail or anticipatory bail in cases falling within the parameters of the law. The consequence for those who suffer incarceration are serious. Common citizens without the means or resources to move the High Courts or this Court languish as undertrials. Courts must be alive to the situation as it prevails on the ground – in the jails and police stations, where human dignity has no protector. As judges, we would do well to remind ourselves that it is through the instrumentality of bail that our criminal justice system's primordial interest in preserving the presumption of innocence finds its most (1977) 4 SCC 308 These words of Justice Krishna Iyer are not isolated silos in our jurisprudence, but have been consistently followed in judgments of this Court for decades. Some of these judgments are: State of U.P. vs Amarmani Tripathi, (2005) 8 SCC 21 and Sanjay Chandra vs CBI, (2012) 1 SCC 40. PART J eloquent expression. The remedy of bail is the —solemn expression of the humaneness of the justice system⁴¹. Tasked as we are with the primary responsibility of preserving the liberty of all citizens, we cannot countenance an approach that has the consequence of applying this basic rule in an inverted form. We have given expression to our anguish in a case where a citizen has approached this court. We have done so in order to reiterate principles which must govern countless other faces whose voices should not go unheard.

In view of the observations in the above said judgments, it is clear that the petitioner's involvement in the above said complaint, F.I.R./remand report are not specific. Hence learned senior counsel requested to consider the bail application on the above stated grounds and also on the medical reasons and

he also submitted that he would obey the conditions imposed by this Court and also cooperate with the investigation.

CrI.P.No.7339 of 2021

13. This petition is filed under Section 437 and 439 of Code of Criminal Procedure, 1973 (for short "Cr.P.C") seeking regular bail to the petitioner/A6 in connection with Crime No.29/2021 on the file of Crime Investigation Department (CID), Economic Offence Wing-II, CID, Andhra Pradesh, at Mangalagiri, Guntur District, wherein the petitioner is alleged to have committed the offences punishable under Sections 166, 167, 418, 420, 465, 468, 471, 409, 201, 109 r/w 120-B IPC and sections 13(1)(c) of Prevention of Corruption Act, 1988.

14. Learned Senior Counsel Sri B.Adinarayana, appearing on behalf of the learned counsel for the petitioner/A6 submitted that basing on the contents of the F.I.R except stating that a huge financial scam involving crores of rupees by SIEMENS and Designtech systems private limited relating to the funds of APSSDC, Vijayawada, no allegations are made against the petitioner. In fact as per the report submitted by the DGCI, the designtech has to provide training software development through various sub-modules designed for high end software for advance manufacturing CAD/CAM. In fact according to the allegations, the designtech has supplied various sub-modules to the companies which are shell/defunct companies by issuing fake invoices without providing any service. Except that there are no allegations against the Siemens industries software India limited. The complaint made by the Chairman, APSSDC on 07.9.2021, the entire allegations are against the DigiTech and the other skillar forms. In fact, the allegations in the said complaint is Siemens has to oversee the functions of the cluster and their maintenance instead of doing so, both of them swindled crores of rupees. Basing on the complaint, the respondents have registered the F.I.R. on 09.12.2021 and the petitioner was shown as A6 in the F.I.R. and he was

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arrested on 10.12.2021 and remanded to judicial custody on 12.12.2021. In the remand report, the following are the fraudulent acts/violations/mis-deeds committed by this petitioner on the following grounds:

1. *He worked as Managing Director of SISW and he was project head of Siemens-APSSDC Project in AP., he entered into agreement with APSSDC for establishing 6 clusters comprising 1 COE and 5 TSDIs all falsely projected as worth Rs.3356 crores (Siemens and Designtech should contribute 90%-AP State Government should contribute 10% of the project).*
2. *He corresponded with the Govt. of AP and got released Rs.371 crores towards Govt. share in advance without executing any work by Technology partners.*
3. *He is the key person in making correspondence with top leaders of the then Govt. and top bureaucrats for getting release of funds of Rs.371 crores in advance in favour of DesignTech.*
4. *In the year 2017 officials of Directorate General of GST Intelligence Unit, Pune registered a case against DesignTech. After investigation they came to a conclusion that the APSSDC funds of Rs.371crores paid to DesignTech for establishing Skill Development Centers along with SISW were diverted by raising fake invoices through the various shell companies. Their investigation further concluded that the diverted amount again was routed back to DesignTech through bank accounts of different companies. The Directors of shell companies paid back the consideration amount to DesignTech after deducting their commission for issue of fake invoices. Further, it is established that much before entering into the agreement, MD, SISW in connivance with MD, DesignTech and others hatched a conspiracy to incorporate and to create a company exclusively to manage and to supply the material to Siemens Project of APSSDC. Pursuant of their conspiracy they incorporated and created a company by name PVSP IT Skills and DesignTech and sub-contracted significant part of the Siemens Project work aggregating to around Rs.241crores to the said company. Later, the amount was diverted from PVSP IT skills to a shell company called Allied Computers International (Asia) Ltd., and other associated shell companies by raising fake invoices.*
5. *The Siemens initiated an internal investigation based on notices received from DGGST Intelligence Unit, Pune, who investigated and concluded that the APSSDC funds were diverted by DesignTech by giving a sub-contract to PVSP IT Skillars from where the amount was diverted to various shell companies by raising fake invoices without providing any services or supplying any goods.*
6. *He along with his team members made email correspondence with the officials of APSSDC and finalized the draft of the manipulated and defective tripartite agreement to serve their vested interests.*
7. *With a preconceived mind, he affixed signature as Suman Bose on APSSDC Siemens Tripartite Agreement, which is quite different from the signature affixed as Soumayadri Shekhar Bose on agreement with Gujarat State.*
8. *He resigned from SISW on 27.3.2018 shortly after the commencement of investigation by Siemens.*
9. *Soon after commencement of investigation by Siemens, Soumayadri Shekhar Bose @ Suman Bose and his team members (GVS Bhaskar Prasad, Bhavana Gupta, Sateesh Kurup, Rahul Sehgal, Ashish Sharma, Naga Rama Pratap Bontha), deliberately deleted data from mobile handsets and laptops.*
10. *However, the investigation team of Siemens retrieved and imaged the deleted data from mobile handsets and laptops of Soumyadri Shekhar Bose @ Suman Bose by using software tools.*
11. *As per internal investigation report of Siemens, the collected evidence established that over a period of years, Mr. Suman Bose has been*

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- actively involved in the control of a number of companies external to Siemens that are involved as sub-contractors in the APSSDC-Siemens Project.
12. The whatsapp and SMS chats between MD, Siemens and Vikas Khanvelkar confirm that currency note numbers were exchanged as "tokens" on multiple instances. The messages also indicate that on submission of the token, cash was delivered to unknown authorized persons at various locations, (Hawala/Money laundering operations).
 13. In April, 2015 Mr. Bose, Bhavna Gupta, GVS Bhaskar Prasad, Vikas Khanvelkar MD of DesignTech had several meetings with provestment group of companies (PVSP Group). The agenda of these meetings were to brief the PVSP group on the APSSDC project and proposed execution of the plan of utilizing of APSSDC grant of Rs.330 crores.
 14. Further, the investigation established that Mr. Bose, Khanvelkar and Mr. Agarwal played an active role in setting up "Skillar" as a project management entity for APSSDC project and the above three persons controlled the activities of Skillars. The remaining team members of Siemens Project had knowledge about creation of Skillars exclusively for Siemens project. Further, Mr. Bose did not share the above actions with other employees of SISW except his close associates/team members.
 15. Further, all the negotiations, scope, management and discussions related to TalentEdge (supplier of manpower) and KnowledgePodium (supplier of course material) were performed by Suman Bose and his SISW team, i.e. GVS.Bhaskar Prasad, Bhavna Gupta, Naga Venkata Pratap Bontha, Ashish Sharma and later handed over to Skillar for raising the purchase orders.
 16. Further, Mr. Soumyadri Shekhar Bose @ Suman Bose played active role in managing and controlling KnowledgePodium and he was the key person to discuss the strategy and its implementation.
 17. There is a strong evidence to establish that Mr. Soumyadri Shekhar Bose @ Suman Bose played active role for creation of PVSP IT skills exclusively for Siemens project with an intention to divert and misuse APSSDC funds in connivance with MD, DesignTech and APSSDC officials.
 18. Mr. Soumyadri Shekhar Bose @ Suman Bose brought the partners viz., DesignTech, PVSP, TalentEdge and KnowledgePodium together for APSSDC project.
 19. Mr. Soumyadri Shekhar Bose @ Suman Bose had previous nexus with MD, DesignTech Mr. Vikas Vinayak Khanvelkar and Mukul Agarwal of Skillars since long back as they worked previously in HCL and Dassault.
 20. Mukul Agarwal joined the Skillars in February, 2016 when the money started flowing in to DesignTech from AP Government. Thus, the closely knit team of Mr.Soumyadri Shekhar Bose @ Suman Bose executed the entire plan with Vikas Khanvelkar who worked with Suman Bose since 1990 in HCL and Mukul Agarwal who worked together with Suman Bose in Dassault and SDRC.
 21. Further, the investigation done by DGGSTI, Pune, indicated that some of the money was routed from Skillars to some Singapore Entity (Ink Fish Hospitality) and from there to Aptus Healthcare (India) Ltd. Through Hawala transactions.
 22. Mr. GVS Bhaskar Prasad was CEO of Aptus Healthcare, he also played active role and assisted Mr. Soumyadri Shekhar Bose @ Suman Bose in APSSDC-Siemens Project.
 23. Further, the shareholding of KnowledgePodium is with a trust by name Seed Go Trust fund, which was registered in Singapore. Mr. Mukul Agarwal is also having shareholding in the trust.
 24. Further, KnowledgePodium failed to deliver the number of online training modules and also modules got diluted. It happened based on the instructions of Mr. Suman Bose and the officials of APSSDC also connived with him.

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25. On the instructions of Mr. Bose and Khanvelkar, Mr. Deepak Yadav went to U.K. to make some Hawala transactions secretly.
 26. Further, it was established that Bill of material attached with MoU/Agreement is very different from the bill of material actually supplied/executed at various CoEs and TSDIs.
 27. DesignTech had used a shell company M/s. Allied Computers International (Asia) Ltd., as a mechanism to obtain improper benefits by using fake invoices raised by the shell companies. The funds released by APSSDC were pilfered off through this modus operandi.
 28. It clearly emerges that Mr. Suman Bose in connivance with Mukul Agarwal, and Mr. Vikas Vinayak Khanvelkar, Ghanta Subbarao, Dr.K.Lakshminarayana and NVK Prasad has committed fraud and forgery, besides fabrication of books and accounts with malafide intention to misuse the APSSDC funds.

15. Learned senior counsel has further submitted that the show cause notice issued on 30.12.2020 by the Director General of Goods and Services Tax Intelligence is that M/s. Designtech systems are mainly engaged in three lines of business 1. Distribution of PLM software of Siemens, 2. Product design and engineering services for automotive OEMS and auto component suppliers and 3. CAD CAM CAE and IT training. M/s Design Tech Systems limited is largely paying service tax under the category of information technology service. A show cause notice has been issued under the provisions of Section 73(1) of the Act to designtech and PVSP/Skillar within five years of the date of filing of their ST-3 returns. Accordingly, the present show cause notice, issued to Designtech and PVSP/Skillar is well within the prescribed period under the provisions of Section 73(1) of the Act read with chapter V of The Taxation and Other Laws (Relaxation of certain provisions) Ordinance, 2020 dated 31.03.2020 wherein the last date has been initially extended up to 30.6.2020 and further extended up to 30.9.2020. Even in the show cause notice liability has been fixed against the PVSP/Skillar only.

16. Further learned senior counsel has submitted that the documents which were related by the Managing Director, APSSDC is mainly on incident report of the DGGST, Pune and forensic aid report of Sarath and associates, chartered accountants and the internal report of the Siemens. Even according to the internal report of the Siemens dated 12.4.2019 findings are that based on the material facts establish during the investigation as well as

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the testimonial evidence it can be concluded that there are strong indications which point to the fact that Mr. Bose, ex SISW CEO played an active role in a scheme together with mentioned external vendors and their owners with the purpose of misusing public funds. Except that there are no clear indications/allegations against the petitioner. Further more in the forensic audit report submitted by the Sarath and associates, chartered accounts in conclusion the allegations made against the petitioner is as follows:

As per the MOA and license agreements between APSSDC, Designtech and Siemens, the actual signatory for Siemens was Mr. Soumyadri Sekhar Bose as a Managing Director but the MOA was signed by Mr. Suman Bose. As per the Siemens email dated 25.9.2020 informed that Mr. Soumyadri Sekhar Bose also called as Mr. Suman Bose. However, the signatures are completely different, and the MOA is signed without mentioning the date of signing and without mentioning the government sanction letter number and date.

17. Except that there are no allegations about the misappropriation of funds. Further learned senior counsel has relied on the preliminary report submitted to the Addl. Director General of Police, CID, Mangalagiri wherein at paragraph number 40 it clearly indicates that the APSSDC requested services of the Central Institute of Tool Design (CITD) for an independent third party valuation of the SIEMENS project of skill development and the CITD accepted the request through its letter dated 05.12.2015. Reply to the said letter the CITD has submitted its request on 04.01.2016 wherein it clearly indicated that the then Principal Director CITD Sri Shujayat Khan submitted preliminary report on valuation of the project to Sri L.Premachandra Reddy, IAS, Secretary to Government. Accordingly, the work was entrusted to CITD by the skill development, Entrepreneurship & Innovation Department. Later CITD has submitted its valuation report on 22.3.2016 to Sri L.Prema Chandra Reddy, IAS, the then Principal Secretary, Department of Skill Development.

18. Finally the learned senior counsel has relied on the allegations made in the remand report. As per the allegations made in the remand report that the petitioner being a managing director of SISW he entered into an agreement

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with APSSDC for establishing six clusters comprising one COE and 5 TSDI are falsely projected as worth Rs.3356 crores (Siemens and Designtech should contribute 90%-AO State Government should contribute 10% of the project). Second ground is that he corresponded with the Government of Andhra Pradesh and got released Rs.371 crores towards Government share in advance without executing any work by technology partners. And further the Siemens has initiated an internal investigation based on notices received from DGGST Intelligence Unit, Pune, who investigated and concluded that the APSSDC funds were diverted by Design Tech by giving a sub-contract to PVSP IT Skillars from where the amount was diverted to various shell companies by raising fake invoices without providing any services or supplying any goods. With a preconceived mind, he affixed signature as Suman Bose on APSSDC Siemens Tripartite agreement, which is quite different from the signature affixed as Soumayadri Sekhar Bose on agreement with Gujarat State. Soon after commencement of investigation by Siemens, Soumayadri Shekhar Bose @ Suman Bose and his team members (GVS Bhaskar Prasad, Bhavana Gupta, Satheesh Kurup, Rahul Sehgal, Ashish Sharma, Naga Rama Pratap Bontha) deliberately deleted data from mobile handsets and laptops. However, the preliminary investigation established that Mr. Bose, Khanvelkar and Mr. Agarwal played an active role in setting up Skillar as a project management entity for APSSDC project and the above three persons controlled the activities of skillars. Finally held that the bill of material attached with MoU/agreement very different from the Bill of material actually supplied/executed at various CoEs and TSDIs.

19. In all the above allegations there are no specific allegations that the petitioner has swallowed the amounts of the APSSDC or how he has diverted the funds of APSSDC to his personal funds and there is no whisper that the amount said to have been paid by the APSSDC is transferred to the account of the petitioner.

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20. Finally the learned senior counsel has submitted that the respondents have filed criminal petition before the Special Court for SPE & ACB Cases, Vijayawada for police custody of the petitioner and the same was considered by the Court and dismissed on 22.12.2021. In view of the said circumstances, the requirement of the petitioner in jail would not arise. He also relied on the judgment report above and as per the observations of the Hon'ble Apex Court, the petitioner is not required to be continued in jail and hence requested to grant bail.

Crl.P.No.31 of 2022:

21. This petition is filed under Section 437 and 439 of Code of Criminal Procedure, 1973 (for short "Cr.P.C") seeking regular bail to the petitioner/A8 in connection with Crime No.29/2021 on the file of Crime Investigation Department (CID), Economic Offence Wing-II, CID, Andhra Pradesh, at Mangalagiri, Guntur District, wherein the petitioner is alleged to have committed the offences punishable under Sections 120-B, 166, 167, 418, 420, 465, 468, 471, 409, 201, 109 r/w 34 & 37 IPC and sections 13(2) r/w 13(1)(c) of Prevention of Corruption Act, 1988.

22. Sri P.Veera Reddy, learned senior counsel appearing on behalf of the learned counsel for the petitioner/A8 has mainly contended that the allegations made by the Chairman, APSSDC in his complaint dated 07.9.2021 itself clearly discloses that the petitioner has to pay 55 crores only as their share of 10%. In the complaint he has specifically stated that as per MoA, DesignTech has to provide training software development including various sub-modules designed for high end software for advance manufacturing CAD/CAM. The MoA does not contemplate sub-contract. But contra, Siemens and Designtech has subcontracted a large part of its work to M/s. Skillar enterprises private limited, New Delhi. As a matter of fact, skillar was established after designtech had entered into a contract with APSSDC. Even in the said complaint they have admitted that the skillar has provided