

THE LAW LEDGER

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DELHI POLICE ACADEMY

(Arising out of SLP(Crl.) No(s). 12344 of 2026)
Date of Judgment: 27/07/2026

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**“Section 38 Bharatiya Nagarik Suraksha Sanhita
Confers Right to Meet, Not Continuous Presence of
Advocate during Interrogation.”
- the Supreme Court of India**

**The State of Andhra Pradesh Appellant(s)
V/s
Suda Suresh Veera Venkata Naga Raju Respondent(s)**

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Act and section involved

Section 38 Bharatiya Nagarik Suraksha Sanhita, 2023

Relevant Paragraphs of the Judgement : -

- (i) For Facts of the case:- Paras 3 to 13 (inclusive)
- (ii) Applicable Legal Principles :- Paragraph no. 27

Brief Facts of the case

A Case FIR No. 107/2026 was registered at PS Krishna Lanka, Vijayawada u/s 127(4), 127(6), 103(1) & 238 BNS, relating to allegations of custodial death of one Gade Sai Krishna on 6th May, 2026. The respondent, an Inspector of Police was the accused. After preliminary examination of the DVRs at PS Krishna Lanka, the Govt. of Andhra Pradesh constituted an SIT to investigate this case. The respondent accused was arrested and was produced before the learned Addl. JMFC on 24th June, 2026, whereupon he was remanded to judicial custody and consequently lodged at the Central Prison, Rajamahendravaram.

On 25th June, 2026, police custody remand for 12 days was sought by the police. Vide its order dated 02nd July, 2026, Court granted police custody of the respondent-accused for a period of 8 days, i.e., from 3rd to 10th July, 2026, to be conducted within the premises of the Central Prison, Rajamahendravaram, on several terms & conditions like advocate accompanying the accused shall remain within the line of sight of interrogation. Aggrieved by several conditions, the State filed petition before Hon'ble High Court. The High Court also modified some of the conditions. So, the State filed the Appeal before Hon'ble Supreme Court.

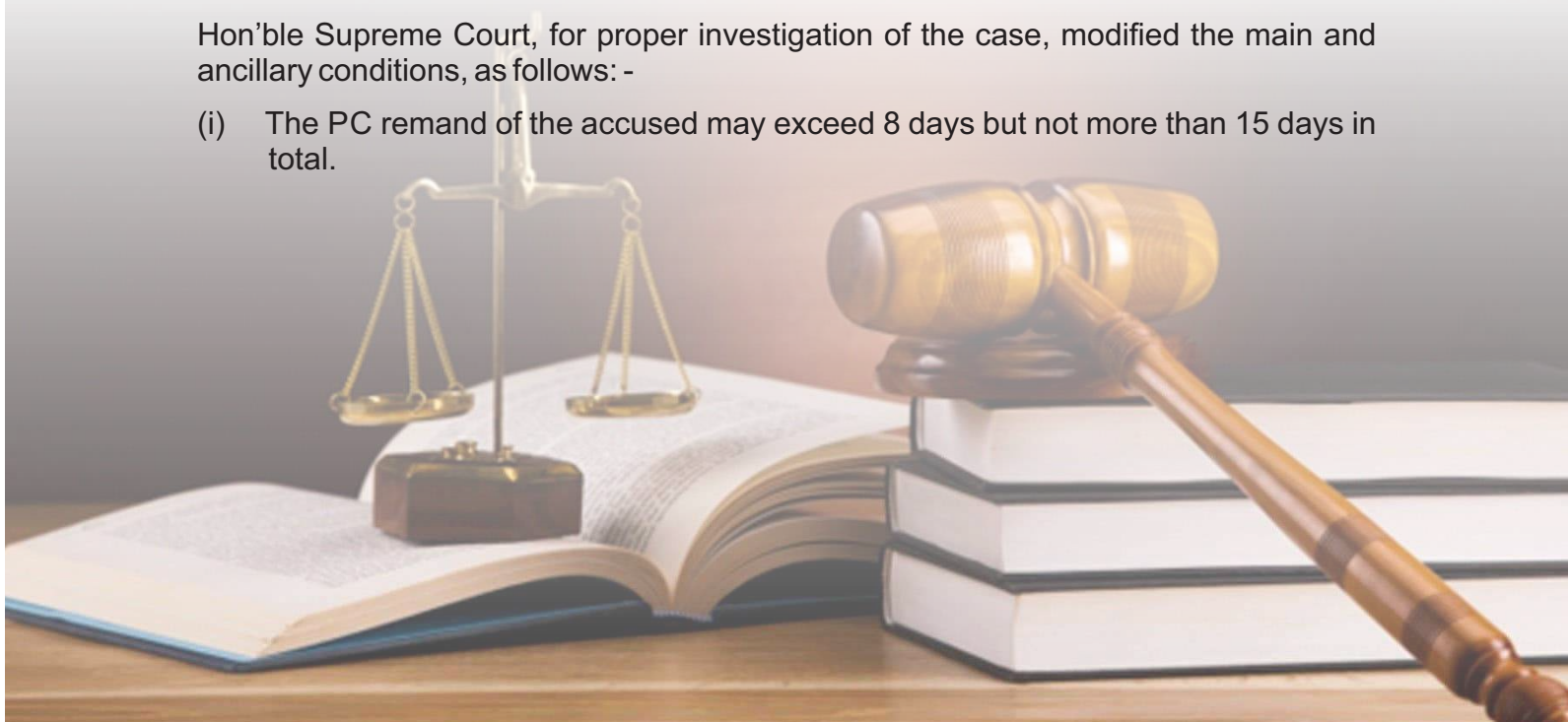
Main Issue Involved

Whether the statutory right of an arrested person to consult a lawyer under Section 38 of the BNSS gives them an absolute right to have their advocate continuously and physically present throughout active interrogation sessions.

Judgement

Hon'ble Supreme Court, for proper investigation of the case, modified the main and ancillary conditions, as follows: -

- (i) The PC remand of the accused may exceed 8 days but not more than 15 days in total.



- (ii) The IO shall have unrestricted access to the accused during the period of PC remand for the purposes of interrogation.
- (iii) The IO was given liberty to interrogate the accused out of Central Prison at the designated interrogation centre of the SIT, or any other equivalent facility.
- (iv) The requirement that the process of custodial interrogation, wherever conducted, shall be conducted under CCTV coverage and/or videographic supervision is retained. However this requirement can be satisfied by audio-visual recording of the actual sessions of interrogation and of any proceedings of discovery or recovery undertaken with the accused and not by uninterrupted videography of the transit of the accused between locations.
- (v) The Investigating Agency shall not subject the respondent-accused to any threat, inducement, coercion, physical assault, mental harassment or third-degree methods during the course of custodial interrogation.
- (vi) The unqualified entitlement to continuous presence of the advocate has been restricted. The lawyer for accused shall only be allowed to remain present within the site of interrogation where he can see the accused. However, the lawyer shall not be permitted to intervene in the process of investigation at any cost.**
- (vii) A copy of the CCTV footage and of the videographic recording in its original form with certificate u/s 63 Bharatiya Sakshya Adhiniyam will be submitted before the learned Magistrate upon the completion of the period of police custody.
- (viii) The IO, SIT members and Jail Authorities will be responsible for ensuring the safety, life and physical well-being of the respondent-accused throughout the period of police custody.

For further reference in the present matter, reliance may also be placed upon the judgment of the Hon'ble Calcutta High Court in, In Re: Enforcement Directorate v/s Mr. Arijit Chakrabarti & Anr., CRR No. 3943 of 2022, wherein, while considering Section 41D of the Code of Criminal Procedure, 1973, the Hon'ble Court recognised the right of an arrested person to meet an advocate of his choice once a day for half an hour during the period of custody with the Enforcement Directorate, in addition to other mandatory constitutional safeguards applicable to such arrest and detention.

