



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 13278 OF 2024

BETWEEN:

MUNEER,
S/O. ABDULLA,
AGED ABOUT 32 YEARS,
R/AT KAIKAMBA, MANJESHWARA TALUK,
KASARGODU DISTRICT,
STATE OF KERALA - 671 323.

...PETITIONER

(BY SRI LETHIF B., ADVOCATE)

AND:

STATE OF KARNATAKA,
BY GONIBEEDU POLICE STATION,
CHIKKAMAGALURU DISTRICT,
REP. BY SPP, HIGH COURT BUILDING,
BANGALORE - 560 001.

...RESPONDENT

(BY SMT. RASHMI PATEL, HCGP)

THIS CRL.P IS FILED U/S.439 (FILED U/S.483 BNSS)
CR.P.C PRAYING TO RELEASE HIM ON BAIL IN CRIME
NO.31/2024 (SPL.C.NO.77/2024) OF GONIBEEDU P.S.,
CHIKKAMAGALURU DISTRICT FOR THE OFFENCE
P/US/20(b)(ii)(c) OF NDPS ACT R/W SEC.192 (1) OF INDIAN
MOTOR VEHICLES ACT, PENDING BEFORE PRINCIPAL DISTRICT





AND SESSIONS JUDGE AND SPECIAL JUDGE,
CHIKKAMAGALURU.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

Accused No.1 in Spl.C.No.77/2024 pending before the Court of Principal District and Session Judge and Special Judge, Chikkamagaluru, arising out of Crime No.31/2024 registered by Gonibeedu Police Station, Chikkamagaluru, for offences punishable under Section 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, (hereinafter referred to as 'the NDPS Act' for short) and Section 192(1) of Indian Motor Vehicles Act, 1988 is before this Court under Section 439 of Cr.PC seeking regular bail.

2. Heard the learned counsel for the parties.

3. FIR in Crime No.31/2024 was registered by Gonibeedu Police Station, Chikkamagaluru initially for



offences punishable under Sections 20(b)(ii)(c) and 29 of the NDPS Act against the petitioner and others, based on the first information dated 09.03.2024 received from the Harshavardhan H.K., police officer attached to Gonibeedu Police Station, Chikkamagaluru.

4. During the course of investigation of the case, petitioner herein who was arraigned as accused No.1 in the FIR was arrested on 09.03.2024 and subsequently remanded to judicial custody. Investigation of the case is completed and charge sheet has been filed against two persons and petitioner is arraigned as accused No.1 in the charge sheet. Bail application filed by the petitioner before the trial Court in Spl.C.No.77/2024 was rejected on 13th November, 2024. Therefore, petitioner is before this Court.

5. Learned Counsel for the petitioner submits the grounds of arrest was not served on the petitioner at the time of his arrest and even the relatives and friends of the



petitioner were not communicated with the grounds of arrest. He submits that petitioner who has no criminal antecedents is in custody for the last more than one year. Accordingly, he prays to allow this petition.

6. *Per contra*, learned HCGP does not dispute the submission made by the learned Counsel for the petitioner and on instructions she submits that the grounds of arrest was not served on the petitioner nor was the same communicated to his friends and relatives.

7. It is the case of the prosecution that on 08.03.2024 the first informant had received the credible information that ganja was being transported by two persons in a Maruthi Omni car bearing registration No.MH 11/BV 3426 and based on such credible information, the said vehicle was intercepted and petitioner who was found in the said vehicle was apprehended and contraband article ganja totally weighing 51 Kgs and 200 Grams was recovered from the vehicle



and was subjected to panchanama. Thereafter, the seized contraband article and apprehended accused were brought to the police station and FIR was registered against the petitioner and another who allegedly had managed to escape.

8. Hon'ble Supreme Court in the case of **PANKAJ BANSAL VS UNION OF INDIA - (2024)7 SCC 576** and **PRABIR PURKAYASTHA VS STATE (NCT OF DELHI) (2024)8 SCC 254**, has held that service of grounds of arrest on the accused who is arrested is mandatory and failure to comply the said requirement would entitle the accused for bail.

9. The law laid down by the Hon'ble Supreme Court in the case of **PANKAJ BANSAL** (*supra*) and **PRABIR PURKAYASTHA** (*supra*) has been reiterated in the case of **Vihaan Kumar VS State of Haryana and Another - 2025 SCC OnLine SC 269** by the Hon'ble Supreme Court and in the said case the Hon'ble Supreme



Court has held that the grounds of arrest is not only required to be served on the accused who is arrested but for the same is also required to be communicated to his friends and relatives.

10. In paragraph No.14 of the order passed in the case of **Vihaan Kumar** (*supra*) the Hon'ble Supreme Court has observed as follows:

"Thus, the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional requirement. Article 22 is included in Part III of the Constitution under the heading of Fundamental Rights. Thus, it is the fundamental right of every person arrested and detained in custody to be informed of the grounds of arrest as soon as possible. If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee guaranteed under Article 22(1). It will also amount to depriving the arrestee of his liberty. The reason is that, as provided in Article 21, no person can be deprived of his liberty except in accordance with the procedure established by law. The procedure established by



law also includes what is provided in Article 22(1). Therefore, when a person is arrested without a warrant, and the grounds of arrest are not informed to him, as soon as may be, after the arrest, it will amount to a violation of his fundamental right guaranteed under Article 21 as well. In a given case, if the mandate of Article 22 is not followed while arresting a person or after arresting a person, it will also violate fundamental right to liberty guaranteed under Article 21, and the arrest will be rendered illegal. On the failure to comply with the requirement of informing grounds of arrest as soon as may be after the arrest, the arrest is vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second."

11. It is not in dispute that the petitioner who has no other similar criminal antecedent is in custody for the last more than one year. Since, the grounds of arrest has been not served on the petitioner which is mandatory as laid down by the Hon'ble Supreme Court in the case of **PANKAJ BANSAL** (*supra*), **PRABIR** (*supra*) and **Vihaan Kumar** (*supra*), the petitioner is entitled for bail notwithstanding the rigor under Section 37(1)(b) of the



NDPS Act. Undisputedly, petitioner has no other criminal antecedents. Considering the aforesaid aspects of the matter, I am of the opinion that the prayer made by the petitioner for grant of regular bail needs to be answered affirmatively. Accordingly, the following:-

ORDER

The petition is ***allowed***.

The petitioner is directed to be enlarged on bail Spl.C.No.77/2024 pending before the Court of Principal District and Session Judge and Special Judge, Chikkamagaluru, arising out of Crime No.31/2024 registered by Gonibeedu Police Station, Chikkamagaluru, for offences punishable under Section 20(b)(ii)(c) of the NDPS Act and Section 192(1) of Indian Motor Vehicles Act, 1988, subject to the following conditions:

- a) The petitioner shall execute personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for the likesum,



out of which one shall be local surety, to the satisfaction of the jurisdictional Court;

b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;

c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioner shall not involve in similar offences in future;

e) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE