

KADK300002782026



**IN THE COURT OF THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, D.K. MANGALURU, SITTING AT
PUTTUR, D.K.**

Dated: - This the 10th day of June 2026

PRESENT

SRI. SADANANDA NAGAPPA NAIK., BAL. L.L.B.,
V Additional District And Sessions Judge,
D.K., Mangaluru, sitting at Puttur D.K.

:: CrI.R.P.No./5055/2026 ::

Zainuddin Hirthila

Aged 46 years,
S/o Idinabba,
R/at 2-142/2, Hirthila House,
Puttur taluk, D.K.

...Revision Petitioner

(By Sri. MPK, Advocate)

/ AND /

The State
By Uppinangady P.S.

.....Respondent

(By Learned Public Prosecutor)

*** * * * ***

: ORDERS :

The Revision Petitioner has filed this petition U/Sec.440 of
B.N.S.S. 2023, to release Iron Boat in favour of petitioner.

2. Revision Petitioner's case :-

The Sub-Inspector of Uppinangady Police Station has filed FIR in Crime No.23/2026 against the accused for the offences punishable u/sec. 44 of Karnataka Minor Mineral Consistent Rule 14, Section 4(1), 4(1A), 21(1)(A) of MMRD Act and Section 303(2) of BNS.

3. In the above said complaint, it is alleged that the accused persons have illegally stored sand and the Police have seized Iron boat-1, iron buckets - 11, plastic buckets - 10 which were seized by the Uppinangady Police in connection of this case as per PF No.23/2026 and same kept in the open premises of Uppinangady Police without protection.

4. The Revision petitioner has filed an application u/sec.440 of BNSS stating that, he is the owner of Iron boat which was seized by the Uppinangady Police in connection of this case as per PF No.23/2026. It is stated that the police have seized Iron boat and the same kept without protection. The Hon'ble 1st Additional Civil Judge & JMFC has rejected the application on the ground of jurisdiction. Being highly aggrieved by said order, the Revision petitioner begs to prefer this revision petition. The Petitioner is ready to execute necessary bonds and ready to abide any conditions if imposed by this Court and he also

undertook to produce the same before this Court, as and when Hon'ble Court directs to do so. Hence, he prays to release the Iron boat seized in Crime NO. 23/2006 of Uppinangady Police Station in favour of petitioner.

5. This Court issued notice to respondent. The learned Public Prosecutor has appeared for the respondent and filed objections to the petition.

6. In the objection statement the learned public prosecutor has contended that the petition filed by the petitioner is invalid and not maintainable either in law or on facts. The case was registered against the accused for the offence punishable u/sec.44 of Karnataka Minor Mineral Consistent Rule 14, Section 4(1), 4(1A), 21(1)(A) of MMRD Act and Section 303(2) of BNS. Further, it is contended that Rule 43-A of the Karnataka Minor Mineral Concessions Rules, 1994 (second amendment in 2017 published in Karnataka Gazette by Notification of the Government in No.CI-302 MMN 2017, Bengaluru, dated 16.11.2017. The said amended Rule 43(8) says that "No release of the vehicle which shall however not include the minor mineral so seized shall be made unless there is an execution by the owner thereof, of security in the form of a renewable Bank

Guarantee of an amount equal to double the value of such vehicle, before the competent Court having jurisdiction to try the offence on account of which, the seizure has been made: Provided that where a report has been made to the Competent Court under sub Rule (7), the seized vehicle shall not be released except under the orders of such Court.”. The Accused has used the said iron boat for illegal mining, without paying royalty to the Government. The Court has passed the order considering the value of the vehicle, the nature of the crime and the possibility of confiscation proceedings. If the vehicle is released without any security, the same vehicle may be used for illegal mining or similar acts and the Court has imposed appropriate conditions. The order of the committal court is correct as the order passed by keeping in mind that due to the act of illegal mining committed by the accused, it causes financial loss to the government. It is further contended that the applicant along with other accused persons have committed the act without following the conditions of the permit issued by the Department of Mines and Geology, by considering the said fact the Court passed a fair order by imposing correct and legal conditions. On these grounds, the learned Public Prosecutor prayed to dismiss the above petition in the interest of justice.

7. I have heard the arguments on both sides.

8. From the above facts the following points arise for my consideration.

1) Whether the revision petitioner has made out ground to allow the petition?

2) What Order?

9. The following are the findings on the above points:-

Point No. 1 :: In the affirmative.

Point No. 2 :: As per the final order, for the following:

: REASONS :

10. **Point No.1:** The Sub-Inspector of Uppinangady Police Station has filed FIR in Crime No.23/2026 against the accused for the offences punishable u/sec. 44 of Karnataka Minor Mineral Consistent Rule 14, Section 4(1), 4(1A), 21(1)(A) of MMRD Act and Section 303(2) of BNS.

11. In this case, the documents produced by the petitioner along with the petition shows that the police have seized the Iron boat, spade, Iron buckets - 11, Plastic buckets - 10, which was involved in the above said crime and reported the same to Court in PF No.23/2026 dated 17.02.2025 by drawing mahazar. The petitioner/accused has filed an application u/sec.503 of BNS

before the 1st Addl. Civil Judge and JMFC, Puttur, D.K. The petitioner is the owner of the iron boat. Further on perusal of the order sheet of the jurisdictional court, it is noticed that, the alleged offenses are under the provisions of the MMDR Act and the said offenses are triable by the Special Court i.e., the District and Sessions Court. As per the statutory provisions, matters relating to seized property which is liable for confiscation under the MMDR Act are within the domain of the Special Court. Therefore, the Committal Court has no jurisdiction to pass orders regarding release of such property. In view of the above legal position, Committal Court dismissed the application filed by the Petitioner under Section 503 of BNSS for want of jurisdiction.

12. The learned counsel for the petitioner and learned Public Prosecutor have argued as per their contentions taken in their respective petition and objections. I have carefully perused the contents of revision petition, documents produced along with it and objection filed by the learned Public Prosecutor.

13. On perusal of the entire records produced by the petitioner and objection filed by the learned Public Prosecutor I noticed that, the police have no authority to register FIR for the offence u/sec.303(2), 3(5) of BNSS. The FIR was registered

without permission of Court as required u/sec.184 of BNSS. Sec.22 of MMRD Act debars a police officer to register FIR as only authorized officer can only file a complaint to Court. Because Sec.22 of MMDR Act defines that-

Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) bars courts from taking cognizance of offenses under the Act or its rules unless a written complaint is filed by an authorized officer of the Central or State Government. It acts as a safeguard against private, malicious complaints, requiring official authorization for prosecution.

Hence, the prosecution of any mining violation case can only be done by the authorized officer by filing complaint to the Court. Hence, the seizure of the vehicle by the police itself was illegal.

14. Further, the alleged offenses are under the provisions of the MMDR Act and the said offenses are triable by the Special Court i.e., the District and Sessions Court. As per the statutory provisions, matters relating to seized property which is liable for confiscation under the MMDR Act are within the domain of the Special Court. Therefore, the petitioner has made out ground to allow the petition. Accordingly, the **point No.1 is answered in the Affirmative.**

15. **Point No.2:** In the result in view of my finding of Point No.1 in the affirmative, I proceed to pass the following;

ORDER

The Revision Petition filed under Section 440 of BNSS, is hereby allowed.

Accordingly, the iron boat seized in Crime No.23/2026 of Uppinangady Police Station, is ordered to be released in favour of the petitioner subject to executing an indemnity bond for Rs. 20,000/- with following conditions;

- 1. The petitioner shall not change the identity of the property in any manner till disposal of this case.***
- 2. He shall produce the said property before the Committal Court and I.O., as and when directed.***
- 3. He shall not transfer or alienate the said property till disposal of this case.***
- 4. He shall not use the said property for any illegal purposes.***

The S.H.O./I.O. is directed to take necessary photographs of the properties and release the said property in favour of the petitioner after drawing proper panchanama and submit the said

***photographs with panchanama to the
Committal Court.***

***Copy of this Order shall be sent to
the jurisdictional Court for reference and
needful action.***

(Dictated to the stenographer directly on computer, typed by her, corrected and then order pronounced in the open Court on this the 10th day of June 2026).

(Sri. Sadananda Nagappa Naik.)

V Addl. District and Sessions Judge,
D.K., Mangaluru, sitting at Puttur, D.K.