

Case is advanced on board and called out.

Accused present.

Counsel Sri. S.G.C., advocate filed power for accused person and filed an application U/Sec. 480 of BNSS., along with S/A, D/A, R.T.C., extract copy of Aadhar card of surety.

Learned APP present and filed objection to the said application.

Heard both side counsels.

For orders.

ORDERS ON BAIL APPLICATION

FILED U/S. 480 of BNSS.,

The learned advocate for the accused person has filed bail application under section 480 of BNSS., by contended that the CPI of Honnavar Police Station has filed false complaint against the accused person. Further contended that the accused person is innocent and law abiding citizen of the society. He further submitted that the alleged offense is not punishable with death or life imprisonment. The accused person is ready and willing to furnish surety and also abide by the terms and conditions imposed by this court, in case of accused person is

released on bail. Hence, prays to enlarge the accused person on bail.

2. Per contra, the learned APP filed objections and contended that the alleged offenses are serious and non-bailable in nature and exclusively triable by the Hon'ble Special Court. If the accused person is released on bail, he may tamper the prosecution witnesses and he may hamper the investigation. accused person he may abscond or flee from justice, if he is released on bail and he may indulge in committing similar type of offenses. If he is released on bail it would become very difficult to secure the presence of accused during the course of trial. Hence, prays for dismissal of the application.

3. Heard and perused the materials placed on record.

4. The following points arise for my consideration:

1. Whether the accused person is deserved to be enlarging on bail?

2. What Order?

5. My findings to the above points are as under:

Point No.1 : **Affirmative.**

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

REASONS

6. Point No.1: The CPI of Honnavar Police Station, has filed private complaint under section 223 of BNSS., for the offenses punishable under sections 4, 4(1A) & 21 of Mines and Minerals Regulation of Development Act. The alleged offenses are triable by Hon'ble Special Court. At this point of time, it is proper to cite the judgment of the Hon'ble High Court of Karnataka. In Sri. Vivek and another vs The State of Karnataka, by Kunigal Police Station and another, reported in ILR 2018 KAR 1497, the Hon'ble High Court of Karnataka has held as follows,

(1). xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

(2). xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

(3). xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

(4). xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

(5). xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

(6). xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

(7). xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

(8). xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

(9). The provisions and powers of the Magistrate with regard to the bail and also with regard to the

interim custody of the seized properties can be exercised by the Magistrate during the inquiry till the committal of the case to the Special Court.

(10). After committal of the case, the Special Court being the trial Court shall have all the powers of the Sessions Court regarding bail and disposal of the properties involved in the case, as provided under the provisions of the Code of Criminal Procedure.”

7. Therefore, this Court has power to grant bail to the accused person even the alleged offenses are excursively triable by the Hon’ble Special Court.

8. Moreover, the alleged offenses are not punishable with death or life imprisonment. Having regard to the facts and circumstances of the case, taking into consideration of nature of the offenses and quantum of punishment prescribed for the alleged offenses, I am of the opinion that the accused person is deserved to be enlarged on bail. The apprehensions of the learned APP can be met with by imposing conditions on accused person. Accordingly, I answer point No.1 in the affirmative.

9.Point No.2: For the aforesaid reasons, I proceed to pass the following:

ORDER

The bail application filed under section 480 BNSS., for accused person is hereby allowed.

The accused person is enlarged on bail, subject to following conditions.

1. Accused person shall execute personal bond for Rs.50,000/- and one surety for the like sum.

2. Accused person shall not abscond or flee from justice or tamper the prosecution witnesses directly or indirectly.

3. Accused person shall not indulge himself in committing similar offenses.

Office is hereby directed to take bonds accordingly.

SD/-

**Prl. Civil Judge & JMFC.,
Honnavar.**

Accused person intends to offer surety.

Counsel for accused has filed surety affidavit of Sri. Timmappa S/o Narayan Gowda, Aged about 67 years, Occ: Agriculturist, R/o: Jalavalli, Tq: Honnavar who is the

owner of land bearing Sy.No.231/2, measuring 00-10-00 situated at Mavinakurva hobali, Jalavalli village, Tq: Honnavar and he undertake to produce the accused person before the Hon'ble Court of Sessions, Karwar.

Perused the surety affidavit and R.T.C., extract and Aadhar cards of Surety is accepted.

Office is hereby directed to take bonds accordingly.

Perused the application filed by the Accused person U/Sec.72 of BNSS is satisfied and allowed. Hence NBW is recalled against accused with penalty of Rs.100/-.

For Committal.

SD/-

**Prl. Civil Judge & JMFC.,
Honnavar.**

Accused person is ready to furnishing the committal surety.

Counsel for accused filed surety affidavit of Sri. Timmappa S/o Narayan Gowda, Aged about 67 years, Occ: Agriculturist, R/o: Jalavalli, Tq: Honnavar who is the owner of land bearing Sy.No.231/2, measuring 00-10-00 situated at Mavinakurva hobali, Jalavalli village, Tq: Honnavar

and he undertake to produce the accused person before the Hon'ble Court of Sessions, Karwar.

Perused the surety affidavit and R.T.C., extract and Aadhar card of Sureties are accepted.

Office is hereby directed to take bonds accordingly.

**SD/-
Prl. Civil Judge & JMFC,
Honnavar.**

**(Order pronounced in open court,
vide its seperate order)**

ORDER

Acting U/Sec. 232 of BNSS., the case against the accused person is committed to the Hon'ble Court of Sessions, Karwar for trial.

1. The accused person shall appear before the Hon'ble Court of Sessions, Karwar during and until conclusion of trial whenever call for.

2. The office is hereby directed to notify the committal order to the learned Public Prosecutor.

3. The office is hereby directed to submit the entire case papers duly indexed along with case properties, if any, to the Hon'ble Court of Sessions, Karwar at the earliest.

4. Accused person is hereby directed to appear before the Hon'ble Court of Sessions Karwar, whenever intimation received from the said Hon'ble Court of Sessions Karwar.

SD/-
**Prl. Civil Judge & JMFC.,
Honnavar.**