



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION No. 323 OF 2026 (439(Cr.PC) /
483(BNSS))

BETWEEN:

1. ABDUL HAMEED
S/O ZAKARIYA
AGED ABOUT 25 YEARS
KAYATADKA HOUSE, MARDALA
ITOOR GRAMA, SUNKADAKATTE POST
PUTTUR TALUK
DAKSHINA KANNADA KARNATAKA – 575 007.
2. MOHAMMED SADIQ
S/O ISMAIL
AGED ABOUT 26 YEARS
R/AT No.3-646, ADYAR PADAVU
ADYAR POST, MANGALORE TALUK
DAKSHINA KARNATAKA-575 007.

...PETITIONERS

(BY SRI MUHAMMAD IRSHAD M H, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY NELAMANGALA RURAL PS
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BANGALORE- 01.

...RESPONDENT

(BY SRI M R PATIL, HCGP)





THIS CRL.P IS FILED UNDER SECTION 439 Cr.PC (FILED UNDER SECTION 483 BNNS) PRAYING TO A ENLARGE PETITIONER No.1 (ACCUSED No.11) ON REGULAR BAIL IN CR.No.53/2025 OF NELAMANGALA RURAL POLICE STATION, NOW PENDING AS SPL.CC.No.1704/2025 BEFORE THE LD. PRL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-1), FOR THE ALLEGED OFFENCES UNDER SECTION 111, 61(2)(A) OF BNS; SECTION 29 OF THE NDPS ACT; AND SEC.3(1)(ii), 3(2), AND 3(4) OF THE KCOC ACT AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL ORDER

This petition is filed by petitioners –accused Nos.11 and 12 under Section 483 of BNS praying to grant bail in Spl.C.C.No.1704/2025 arising out of Crime No.53/2025 of Nelamangala Rural Police Station pending on the file of Principal City Civil and Sessions Judge, Bangalore (CCH-1) registered for offences punishable under Sections 111, 61(2)(A) of BNS, Section 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “NDPS Act” for brevity) and 3(1)(ii), 3(2) and 3(4) of Karnataka Control of Organised Crimes Act, 2000 (hereinafter referred to as “KCOC Act” for brevity) .



2. Heard learned counsel for petitioners and learned HCGP for the respondent –State.

3. Learned counsel for petitioners would contend that the petitioner -accused No.11 is alleged to have been member of the Garuda gang and alleged to have conspired with the other accused to kidnap C.W.1. Accused No.11 is stated to have went with Rahil to the garage of C.W.33 and took the Baleno car left for repair by accused No.10 and in the case of trial, they took the car along with the garage worker C.W.34. On the way, accused No.11 and his friend Rahil assaulted the C.W.34 and robbed the said Baleno car and took away the said car and gave it to accused No.3. There are no serious allegations against this petitioner -accused No.12. Accused No.12 is stated to be brother-in-law of accused No.3, who is stated to have given him Rs.2,50,000/- and he has transferred the said amount to different accounts. Accused No.12 is not having any criminal antecedents. Accused Nos.14 and 15 have been granted bail. Both petitioners are the cab drivers and



they are having children who are dependent on them. He replied upon the decision of the C-ordinate Bench of this Court in Criminal Petition No.5587/2023 wherein it is held as under;

11. In Ranjitsing's case supra, the Hon'ble Supreme Court which was considering the rigor of similar provisions in paragraphs 36 to 38 and 46, has observed as under:

"36. Does this statute require that before a person is released on bail, the court, albeit prima facie, must come to the conclusion that he is not guilty of such offence? Is it necessary for the court to record such a finding? Would there be any machinery available to the court to ascertain that once the accused is enlarged on bail, he would not commit any offence whatsoever?

37. Such findings are required to be recorded only for the purpose of arriving at an objective finding on the basis of materials on record only for grant of bail and for no other purpose.



38. We are furthermore of the opinion that the restrictions on the power of the court to grant bail should not be pushed too far. If the court, having regard to the materials brought on record, is satisfied that in all probability he may not be ultimately convicted, an order granting bail may be passed. The satisfaction of the court as regards his likelihood of not committing an offence while on bail must be construed to mean an offence under the Act and not any offence whatsoever be it a minor or major offence. If such an expansive meaning is given, even likelihood of commission of an offence under Section 279 of the Penal Code, 1860 may debar the court from releasing the accused on bail. A statute, it is trite, should not be interpreted in such a manner as would lead to absurdity. What would further be necessary on the part of the court is to see the culpability of the accused and his involvement in the commission of an organised crime either directly or indirectly. The court at the time of considering the application for grant of



bail shall consider the question from the angle as to whether he was possessed of the requisite mens rea. Every little omission or commission, negligence or dereliction may not lead to a possibility of his having culpability in the matter which is not the sine qua non for attracting the provisions of MCOCA. A person in a given situation may not do that which he ought to have done. The court may in a situation of this nature keep in mind the broad principles of law that some acts of omission and commission on the part of a public servant may attract disciplinary proceedings but may not attract a penal provision.

46. The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. However, while dealing with a special statute like MCOCA having regard to the provisions contained in sub-section (4) of Section 21 of the Act, the court may have to probe into the matter deeper so as to enable it to arrive at a finding that



the materials collected against the accused during the investigation may not justify a judgment of conviction. The findings recorded by the court while granting or refusing bail undoubtedly would be tentative in nature, which may not have any bearing on the merit of the case and the trial court would, thus, be free to decide the case on the basis of evidence adduced at the trial, without in any manner being prejudiced thereby."

12. In the case of **CHENNA BOYANNA KRISHNA YADAV VS STATE OF MAHARASHTRA & ANOTHER - (2007)1 SCC 242**, the Hon'ble Supreme Court in paragraph 16 has observed as under:

"16. At this stage, it is neither necessary nor desirable to weigh the evidence meticulously to arrive at a positive finding as to whether or not the appellant has committed offences under Section 3(2) or Section 24 of MCOCA. What is to be seen is whether there is a reasonable ground for believing that the appellant is not guilty of the two offences, he has been charged with, and



further that he is not likely to commit an offence under MCOCA while on bail. As noted above, the circumstance which has weighed with the High Court to conclude that the appellant had the knowledge of the organized crime syndicate of Telgi, printing fake stamps, etc. and these were being sold under the protection of the appellant and hence he had abetted an organised crime, is the alleged conversation between him and Telgi in January 1998, after the kidnapping incident. In our view, the alleged conversation may show the appellant's acquaintance with Telgi but may not per se be sufficient to prove the appellant's direct role with the commission of an organized crime by Telgi, to bring home an offence of abetment in the commission of organized crime falling within the ambit of Section 3(2) of MCOCA and/or that he had rendered any help or support in the commission of an organised crime whether before or after the commission of such offence by a member of an organised crime syndicate or had abstained from taking lawful measures under MCOCA, thus, falling



within the purview of Section 24 of MCOCA. It is true that when the gravity of the offence alleged is severe, mere period of incarceration or the fact that the trial is not likely to be concluded in the near future either by itself or conjointly may not entitle the accused to be enlarged on bail. Nevertheless, both these factors may also be taken into consideration while deciding the question of grant of bail."

On these grounds, he prayed to allow the petition.

4. *Per contra*, learned HCGP for the respondent - State would contend that the voluntary statement of the accused No.11 itself indicates that he is having criminal antecedents involved in three cases including the dealing in drugs. His statement has been recorded by Superintendent of Police and it is having presumptive value. Accused No.12 is the relative of accused No.3, who has kidnapped C.W.1 and robbed the cash and gave it to this accused No.12, who has transferred the amount to different accounts. The charge sheet materials show *prima*



facie case against petitioners for offences alleged against them. One of the offences alleged is provided with sentence which may extend to imprisonment for life. With this, he prayed to reject the petition.

5. Having heard learned counsels, the Court has perused the charge sheet and other materials placed on the record.

6. As per charge sheet, the case of the prosecution is that accused Nos.1 to 15 are members of the organized crime syndicate by name Team Garuda. Accused Nos.1 to 11 conspired to kidnap C.W.1. In furtherance of the said conspiracy on 24.01.2025, the accused persons kidnapped C.W.1 and took him to different places and extorted money from him and demanded further money from C.W.1. Accused persons total extorted Rs.11,96,000/- from C.W.1 and out of them Rs.11,83,626/- has been recovered at the instance of accused persons. There is allegation against accused No.11, that he is member of Grada gang and he has



involved in commission of offences along with accused Nos.1 and 2. On 23.01.2025, the accused No.1 went to an open space wherein members of Garada gang were gathering wherein leaders -accused Nos. 1, 2 and 3 along with the others i.e., accused Nos.4, 7, 8 and 10 came there and altogether consumed drugs. Accused No.1 told the others to identify the customers for drug peddling and they also planned to kidnap some businessmen and to rob cash and ornaments from them. Accused No.1 who was also present there along with other accused has agreed for the said conspiracy. Accused Nos.1 to 3 on 25.01.2025 have followed C.W.1, who was going towards Nelamangala in vehicle and they followed him along with others and on 26.01.2025 at about 05.00a.m. they stopped C.W.1, kidnapped him and robbed money from him and got transferred amount from his account to different accounts. The petitioner -accused No.11 on 22.02.2025 at the instructions of accused No.3 went along with his friend Rahil to the garage of C.W.33 and took the vehicle given



by accused No.10 for trial, along with C.W.34 –garage worker in the said garage. On the way, this petitioner - accused No.11 assaulted C.W.34 and took the Baleno car and gave it to accused No.3. Accused No.11 is involved in three criminal cases. The provisions of KCOC have been invoked against the petitioner -accused No.11. The statement of accused No.11 has been recorded by the Superintendent of Police, wherein he has admitted his involvement in the commission of alleged offence and member of organized crime syndicate. The said voluntary statement recorded by the Superintendent of Police is having presumptive value. Considering the said aspects, there is *prima facie* case against the petitioner -accused No.11 for offences alleged against him and therefore he has not made out any grounds for grant of bail.

7. The allegation against accused No.12 is that he is relative of accused No.3 and he has received Rs.2,50,000/- from accused No.3 and transferred them to different accounts and what remained with him is Rs.550/-



and he has spent them. There are no criminal antecedents of accused No.12. Considering the said aspect, the petitioner -accused No.12 has made out grounds for grant of bail with conditions.

8. In the result, the following

ORDER

- i) The petition is ***partly allowed.*** (The bail petition by petitioner -accused No.11 is dismissed. The bail petition by petitioner -accused No.12 is allowed)
- ii) The petitioner -accused No.12 is granted bail in Spl.C.C.No.1704/2025 arising out of Crime No.- 53/2025 of Nelamangala Rural Police Station pending on the file of Principal City Civil and Sessions Judge, Bangalore (CCH-1) subject to following conditions:
 - a) The petitioner -accused No.12 shall execute a bail bond for a sum of Rs,1,00,000/- with



two sureties for the like sum to the satisfaction of the trial Court.

b) The petitioner -accused No.12 shall not tamper the prosecution witnesses either directly or indirectly.

c) The petitioner -accused No.12 shall attend the trial court on all dates hearing unless exempted and co-operate for speedy disposal of the case.

d) The petitioner -accused No.12 shall not involve in commission of any offence. If the petitioner -accused No.12 is found involved in commission of any offence, the prosecution is at liberty to seek cancellation of bail granted to him.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP
List No.: 1 Sl No.: 48