



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 4906 OF 2026

BETWEEN:

MS. SUSAN GATHONI WANJIRA
AGED ABOUT 36 YEARS,
PASSPORT NO-BK440544
R/AT. NYERI KENYA
(NOTE - THIS MUCH OF ADDRESS
ONLY FOUND IN THE ENTIRE RECORD,
HENCE MENTIONED ACCORDING TO
THE REMAND APPLICATION)

...PETITIONER

(BY SRI. BASAVARAJU T A., ADVOCATE)

AND:

1. UNION OF INDIA THOUGH
THE INTELLIGENCE OFFICER,
DIRECTORATE OF REVENUE
INTELLIGENCE/BANGALORE ZONAL
UNIT NO-8(2) P, OPP. BDA COMPLEX
HBR LAYOUT KALYANANAGAR
BENGALURU-560043
BANGALURU CITY
REP. BY STATE PUBLIC PROSECUTOR
PUBLIC PROSECUTORS OFFICE
HIGH COURT BUILDING
HIGH COURT OF KARNATAKA
AMBEDKAR VEEDI AT
BANGALURU- 560 001
2. THE FOREIGNERS REGIONAL
REGISTRATION OFFICE (FRRO)
5TH FLOOR, A BLOCK, TTMC,
BMTc BUS STAND BUILDING,





K.H. ROAD, SHANTHINAGAR,
BANGALORE - 560027

...RESPONDENTS

(BY SRI.H.SHANTHI BHUSHAN, DSGI)

THIS CRL.P. IS FILED UNDER SECTION.482(FILED U/S.528 BNSS) CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN F.NO.DRI/BZU/S-IV/ENQ-64/(INT-NIL)/2024 FOR AN OFFENCE P/US/ 8(c),21(C),23(c),28 AND 29 OF NDPS ACT, WHICH IS PENDING ON THE FILE OF THE HONBLE XXXIII ADDL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE FOR NDPS ACT AT BENGALURU CITY IN SPL.C.NO.1655/2025.

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

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

ORAL ORDER

Petitioner – accused is before this Court calling in question entire proceedings in F.No.DRI/BZU/S-IV/ENQ-64/(INT-NIL)/2024 and the proceedings in Spl.C.No.1655/2025, pending before the XXXIII Additional City Civil and Sessions Judge and Special Judge for NDPS Act, for the offences punishable under Sections 8(c), 21(c), 23(c), 28 and 29 of the NDPS Act.

2. Heard Sri T.A.Basavaraju, learned counsel for petitioner and Sri Shanthi Bhushan H., learned Deputy Solicitor General of India for the respondents.



3. On 13.11.2024, the respondents – Intelligence Officer caught the petitioner red-handed while holding a bag of narcotic drugs - Cocaine to a tune of 4188 grams, at the Kempe Gowda International Airport. The petitioner is arrested immediately on recovery of contraband articles. The petitioner being a national of Nyeri, Kenya, is booked under the provisions of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, in F.No.DRI/BZU/S-IV/ENQ-64/(INT-NIL)/2024 and now the case is pending before the Sessions Judge for NDPS offences in Spl.C.C.No.1655/2025 for the afore-quoted offences. The petitioner is granted bail on 20.08.2025 and is unable to be released due to non-compliance of surety conditions in the bail. The concerned Court has already framed charges and the trial is on. Therefore, the petitioner is before this Court pleading that she is suffering from serious ailments and has reached final stage of Human Immunodeficiency Virus (for short 'HIV') resulting in the immune system compromised due to Acquired Immunodeficiency Syndrome (for short 'AIDS') and prays a direction to respondent No.2 – Foreigners Regional Registration Office to deport back to her country – Kenya.



4. Learned counsel for the petitioner would take this Court through the averments made in the subject criminal petition and submits that the petitioner is unable to comply with the local surety conditions and wants to go back to her country as she is suffering from serious illness.

5. Sri Shanthi Bhushan H., learned Deputy Solicitor General of India appearing for the respondents – the Foreigners Regional Registration Office would submit that detaining the petitioner any longer in the jail or the detention centre would be harmful to other inmates. Therefore, he submits that the proceedings shall be quashed and steps will be taken in terms of the Model Standard Operating Procedure ('SOP' for short) for deportation of the petitioner to her country - Kenya.

6. I have given my anxious consideration to the submissions made by the learned counsel for the parties and have perused the material on record.

7. The afore-narrated facts are not in dispute. The petitioner is the sole accused charged for the offences afore-quoted and hails from Kenya. Though she is granted bail by



the concerned Court, is not released from jail as she is unable to furnish local sureties. The plea of the petitioner before this Court is that, she wants to go back to her country due to the aforesaid illness. Though the offence alleged is punishable with imprisonment beyond seven years, in the peculiar facts of this case, this Court deems it appropriate to obliterate the crime and permit her to be deported back to her country – Kenya. Though the Standard Operating Procedure would indicate that the offences punishable beyond seven years for offences under BNS / IPC and ten years for the offences punishable under the NDPS Act would not come within the realm of the said procedure, which stipulates to withdraw prosecution and deport foreign nationals to their country. Since the petitioner is suffering from HIV which has led to AIDS, it is in the petitioner's interest that she should be deported back to her nation – Kenya by bringing this peculiar case as a one-off solution to a one-off problem. The preamble to the said SOP records circumstances which necessitated its formulation. The preamble is as follows:-

"I am directed to say that misuse of legal procedures by certain foreign nationals who



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intentionally implicate themselves in criminal offences to delay deportation or gain prolonged stay in the India has been observed by the Law Enforcement Agencies in various States/UTs. Once the case is registered, these foreigners use various legal and procedural tactics viz., repeated adjournments sought on medical grounds, change of counsel, filing frivolous applications before the trial Court such as bail & discharge, absconding between hearings, claiming refugee status on frivolous ground during pending trial and by challenging various stages of trial procedure in higher courts. These tactics have often resulted in prolonged under trial detention or bail with restrictions, effectively allowing them to remain in India for years and expand their criminal activities, gangs and organized crimes in the country.

2. This matter came up for consideration at the DGSP/IGsP Conference, 2024, when it was inter alia decided that a comprehensive policy/legal framework to prevent misuse of judicial process by foreigners to overstay may be formulated by the Ministry of Home Affairs, in consultation with all stakeholders. It was further decided that the policy may examine withdrawal of cases where punishments were less than 7 years to facilitate deportation.

3. Accordingly, the matter regarding framing of a model Standard Operating Procedure (SOP) for withdrawal from prosecution in cases filed against foreigners to facilitate their deportation has been examined by this Ministry in consultation with various stakeholders. Based on the inputs received from various stakeholders, a model SOP has been prepared in this regard within the framework of Section 360 of Bharatiya Nagrik Suraksha Sanhita, 2023 (46 of 2023) and a copy of the same is enclosed.

4. The model SOP indicates the types of cases where withdrawal from prosecution may be considered against the foreigners, types of cases where such withdrawal from prosecution may not be considered and the detailed procedure that may be followed by State/UT prosecuting agencies and



central prosecuting agencies for withdrawal from prosecution in such cases. Review of such cases by two Committees i.e., one District Level Screening Committee and another State Level Screening Committee in cases filed by State/UT prosecuting agencies is envisaged in the model SOP. In cases filed by central prosecuting agencies, it has been suggested that they may consider constituting an Agency Screening Committee to review such cases.

5. The objective of this model SOP is to prevent misuse of the judicial process by foreigners to prolong their stay in India. This will facilitate early deportation of such foreigners from the country and will also help in conservation of valuable judicial resources.

6. State/UT prosecuting agencies and central prosecuting agencies are advised to consider adopting the enclosed model SOP, by taking approval of the respective competent authorities, for withdrawal from prosecution in respect of cases filed against foreigners. Steps taken in this regard may please be intimated to this Ministry at the earliest."

(Emphasis supplied)

In the light of the afore-quoted Standard Operating Procedure and the submissions of the learned Deputy Solicitor General of India, this Court deems it appropriate to quash the impugned crime against the petitioner.

8. For the aforesaid reasons, the following:

ORDER

(i) Criminal Petition is **disposed**.



- (ii) The entire proceedings in F.No.DRI/BZU/S-IV/ENQ-64/(INT-NIL)/2024 and the proceedings in Spl.C.No.1655/2025, pending before the XXXIII Additional City Civil and Sessions Judge and Special Judge for NDPS Act, only against the petitioner, stand quashed.

- (iii) The petitioner shall forthwith be released from the prison; she shall be handed over to respondent No.2 – the FRRO and respondent No.2 – the FRRO shall take appropriate steps to deport the petitioner to her country - Kenya.

Ordered accordingly.

SD/-
(M.NAGAPRASANNA)
JUDGE

NVJ
List No.: 3 Sl No.: 7