



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. 4905 OF 2026

BETWEEN:

MISS. NIYUHIRE FURAH
D/O. NIYONZINA,
AGED ABOUT 29 YEARS,
PRESENT AT NO-GF-15,
BALAJI NEST, 34TH CROSS,
2ND MAIN, HBR LAYOUT,
BENGALURU, PIN-560 043,
PERMANENT AT
BUVUMBI BUTIHINDA,
UMURUNDI OCUNTRY,
(PETITIONER IS IN DETENTION
CENTER UNDER THE CUSTODY OF FRRO)

...PETITIONER

(BY SRI. BASAVARAJU T A., ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
HENNUR POLICE STATION,
BENGALURU CITY,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
PUBLIC PROSECUTORS OFFICE,
HIGH COURT BUILDING,
HIGH COURT OF KARNATAKA,
AMBEDKAR VEEDHI,
AT BENGALURU 560 001.
2. SANGAPPA MARABAD
PSI, POLICE INSPECTOR,
AGED ABOUT 36 YEARS,
PSI OF HENNUR POLICE,





BALACHANDRA LAYOUT,
BABUSAPALYA,
BENGALURU CITY-560 043.

3. THE FOREIGNERS REGIONAL
REGISTRATION OFFICE (FRRO)
5TH FLOOR, A BLOCK,
TTMC, BMTC BUS STAND BUILDNG,
K. H. ROAD, SHANTHINAGAR,
BANGALORE-560 027.

...RESPONDENTS

(BY SRI.RAHUL RAI K., HCGP FOR R1 AND R2;
SRI.H.SHANTHI BHUSHAN, DSGI FOR R3)

THIS CRL.P FILED UNDER SECTION 482 CR.P.C (U/S 528 BNSS) PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN SC.NO.1696/2025 ARISING OUT OF CR.NO.106/2024 REGISTERED BY HENNUR P.S., FOR THE OFFENCE P/U/S 370(3) OF IPC, U/S 3,4,5,6,7,9 OF I.T.P ACT, PENDING BEFORE THE HONBLE LXXI ADDL. CITY CIVIL AND SESSIONS JUDGE (CCH-72) SC.NO.16/2024 ARISING OUT OF CR.NO.732/2023.

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 No.1 is before this Court calling in question proceedings in S.C.No.1696/2025 (arising out of Crime No.106/2024), pending before the LXXI Additional City Civil and Sessions Court (CCH-72), Bengaluru, for the offences under Sections 370(3) of the IPC and Sections 3, 4, 5, 6, 7 and 9 of the Immoral Traffic (Prevention)] Act, 1956.



2. Heard Sri T.A.Basavaraju, learned counsel for petitioner, Sri Rahul Rai K., learned High Court Government Pleader for respondent Nos.1 and 2 and Sri Shanthi Bhushan H., learned Deputy Solicitor General of India for respondent No.3.

3. While respondent No.2 – complainant was performing patrolling duty on 04.03.2024, receives information that at a house bearing No.GF-15, Balaji Nest, 34th Cross, 2nd Main, HBR Layout, Bengaluru – 560 043, a lady from Burundi country is indulging in prostitution and forcing women belonging to Burundi country into prostitution. The police conduct raid and arrested the petitioner and others. A crime is then registered on the score that a brothel is being run at the said place by the petitioner, arrested her and taken into custody. Police conduct investigation and a charge sheet is filed before the concerned Court. The concerned Court commits the proceedings to the Court of Sessions. The matter is now pending in S.C.No.1696/2025. The petitioner was granted bail on 14.01.2026 and is been released from jail and is today, she is in the detention centre of respondent No.3 – Foreigners



Regional Registration Office. Therefore, the petitioner is before this Court pleading that her Visa documents have expired and admits that she is staying illegally and want to go back to her country – Burundi and a direction to respondent No.3 – Foreigners Regional Registration Office to send her back to her country.

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 wanting to go back to her country as she has undergone severe mental agony and that she is over staying in the counter and unable to go back to her country on the score that her visa and passport have been expired.

5. Sri Shanthi Bhushan H., learned Deputy Solicitor General of India appearing for respondent No.3 – the Foreigners Regional Registration Office would submit that steps will be taken in terms of the Model Standard Operating Procedure ('SOP' for short).



6. The Additional State Public Prosecutor representing the respondent – State would also submit that in terms of the Standard Operating Procedure, if prosecution is withdrawn, the petitioner can be consequently remanded to the FRRO.

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

8. The afore-narrated facts are not in dispute. The petitioner is arraigned accused No.1 of the alleged prostitution and hails from Burundi. She is granted bail by the concerned Court, released from jail and is now at the detention centre of respondent No.3. The plea of the petitioner before this Court is that, she wants to go back to her country. The issue would be whether pending prosecution against the petitioner for the afore-quoted offences, can the petitioner be sent back to her country – Burundi. The Government of India on 25.11.2025, has issued a Standard Operating Procedure, governing the withdrawal of prosecution in cases involving foreign nationals, with the avowed objective of facilitating their deportation. 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 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.



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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)

It is observed that certain foreign nationals have been misusing the legal process of the country by deliberately implicating themselves in criminal proceedings, so as to thwart or delay deportation and thereby prolong their stay within the



territory of India. The background to bring in the SOP reads as follows:

"1. Background

Misuse of legal procedures by certain foreign nationals who intentionally implicate themselves in criminal offences to delay deportation or gain prolonged stay in 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.

In the DGsP/IGsP Conference, 2024, it was inter-alia decided as under:

"A comprehensive policy/legal framework to prevent misuse of judicial process by foreigners to overstay, to be formulated by MHA, in consultation with all stakeholders, including MEA, IB and legal officers. The policy would examine withdrawal of cases where punishments were less than 7 years, to facilitate deportation."."

The types of cases where withdrawal of prosecution is to be considered are as follows:

"3. Types of cases where withdrawal from prosecution may be considered against the foreigners.



- (i) An offence registered under the Bharatiya Nyay Sanhita, 2023 (45 of 2023) which is compoundable under Section 359 of the Bharatiya Nagarik Suraksha Sanhita, 2023(Act 46 of 2023).
- (ii) **An offence registered under the Bharatiya Nyay Sanhita, 2023 (45 of 2023) which carries a punishment of imprisonment of up to 7 years.**
- (iii) An offence registered under any Central Act, including the Immigration and Foreigners Act, 2025 (13 of 2025) and its predecessor Acts, but other than Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 (61 of 1985) or any State Act which is compoundable and/or where the punishment provided for the offence in the Act is imprisonment of up to 7 years.
- (iv) An offence under the NDPS Act which carries a punishment of imprisonment up to ten years.
- (v) Cases involving inexpediency of prosecution where trial is pending for more than five years."

(Emphasis supplied)

In the light of the afore-quoted Standard Operating Procedure, steps be taken to deport this petitioner after withdrawal of the prosecution and if the Standard Operating Procedure would not permit deportation, the prosecution shall continue against the petitioner.



9. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is **disposed**.
- (ii) The respondent No.3 – Foreigners Regional Registration Office shall follow the procedure in terms of the Standard Operating Procedure and after the crime is withdrawn, the petitioner shall be handed over to the FRRO of the jurisdiction, to take further steps against the petitioners for overstaying, without any valid documents, in terms of the SOP.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE

NVJ
List No.: 3 Sl No.: 6