



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 16372 OF 2025

BETWEEN:

MARIRAJAN

(SHOWN AS RAVI IN THE FIR)

S/O.MUTHU ALIGIRI SWAMY

AGED 60 YEARS

NOW RESIDING AT NO.303,

A BLOCK

G.R.SIGNATURE APARTMENT

PATTANDURU AGRAHARA VILLAGE

WHITEFILED, KADUGODI

BANGALORE - 560 067

...PETITIONER

(BY SRI. G.K. BHAT, SENIOR ADVOCATE FOR

SMT. SUDHA D.,ADVOCATE)



AND:

STATE OF KARNATAKA

BY INSPECTOR OF POLICE

MADANAYAKANAHALLI POLICE STATION,

BENGALURU

...RESPONDENT

(BY SRI. B.N. JAGADEESHA, ADDL. SPP)

THIS CRL.P IS FILED U/S. 482 OF (FILED U/S.528 BNSS) CR.P.C. BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO A. SET ASIDE THE ORDER DATED 14.11.2025 PASSED BY THE LEARNED ADDL CIVIL JUDGE AND JMFC, NELAMANGALA IN CRIME NO.748/2024 WITHOUT REFERENCE TO C.C.NO.13134/2024 AND ETC.

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

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner is before the Court calling in question an order of the concerned Court dated 14.11.2025, which rejects an application filed by the petitioner under Sections 497 and 503 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('the



BNSS' for short) and makes over the vehicle to the hands of the Deputy Commissioner of Excise.

2. Heard Sri. G.K. Bhat, learned Senior Counsel for Smt. Sudha D., learned counsel appearing for the petitioner and Sri. B.N. Jagadeesha, learned Additional Special Public Prosecutor.

3. The petitioner gets embroiled in a crime in Crime No.748 of 2024, which results in seizure of the vehicle on the ground that the vehicle was being used to transport liquor. The liquor that is said to have been seized in the case at hand is about 10,000/- litres. Be that as it may. The issue now relates to the rejection of an application under Sections 497 and 503 of the BNSS.

4. Sri. G.K. Bhat, learned Senior Counsel appearing for the petitioner would take this Court through the Section 43A of the Karnataka Excise Act, 1965 ('the Act' for short).

5. Section 43A of the Act reads as follows:

" 43A. [Confiscation by Excise Officers in certain cases. [Sections 43A to 43G Inserted by Act 36 of 1987 w.e.f. 10.08.1987]



(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, where anything liable for confiscation under section 43 is seized or detained under the provisions of this Act, the officer seizing and detaining such property shall, without any reasonable delay, produce the same before an officer not below the rank of a Superintendent of Excise authorised by the Government in this behalf by notification (hereinafter referred to as the authorised officer).

(2) On production of the seized property under sub-section (1), the authorised officer, if satisfied that an offence under this Act has been committed may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of such property:

[Provided that the authorised officer may pending final disposal of the proceedings in respect of the property seized under sub-section (1) and subject to this section and sections 43B to 43G,-

(i) release the seized property except excisable articles to the owner of such property;

(ii) release the seized excisable articles to their owner if he possesses a licence under the Act or the rules made thereunder;

on production of a Bank Guarantee issued from a Scheduled Bank for a sum equal to the value as estimated by the authorised officer, (which shall be renewable by him from time to time till final disposal of such proceeding) and on execution by the owner thereof a bond for production of such property or as the case may be, excisable articles so released, if and when so required, before the authorised officer.]

(3) When making an order of confiscation under sub-section (2), the authorised officer may also order that such of the properties to which the order of confiscation relates, which in his opinion cannot be



preserved or are not fit for human consumption, be destroyed.

- (4) Where the authorised officer after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof to be sold by public auction.
- (5) Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of any such auction or other incidental expenses, relating thereto, shall, where the order of confiscation made under this section is set aside or annulled by an order under section 43D or 43E, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order."

Section 43A of the Act would mandate that the seizure of the vehicle involved in an excise offence would be only before the Deputy Commissioner of Excise and an application for release of the said vehicle should be made only before the Deputy Commissioner of Excise.

6. In the case at hand, after the registration of the crime, the vehicle is seized and seizure is reported before the learned Magistrate on P.F. of the said vehicle. Therefore, the petitioner files an application before the learned Magistrate under Sections 497 and 503 of the BNSS. The Magistrate could not have then made over the vehicle to the Deputy



Commissioner of Excise/authorised officer is the submission of the learned Senior Counsel.

7. The submissions be as they are. To resolve the issue, I deem it appropriate to dispose the subject petition directing the Magistrate to consider the application under Sections 497 and 503 of the BNSS on its merit if the vehicle is as on date not transferred to the custody of the Deputy Commissioner of Excise/authorised officer. In the event, the Deputy Commissioner of Excise is taken custody of the vehicle, the petitioner shall file an application before the Deputy Commissioner of Excise/authorised officer seeking its release and the Deputy Commissioner of Excise/authorised officer shall answer the application on its merit, within a fortnight from the date of its filing.

8. For the aforesaid reasons, the following:

ORDER

- (i) The criminal petition is ***allowed in part;***
- (ii) The order dated 14.11.2025 stands quashed;
- (iii) The matter is remitted back to the hands of the concerned Court to answer the application



under Sections 497 and 503 of the BNSS on its merit, only if the vehicle has not yet changed hands *qua* custody from the hands of the Court to the hands of the Deputy Commissioner of Excise;

- (iv) In the event, it is changed hands of the Deputy Commissioner of Excise, the petitioner shall file an application within one week, if not earlier before the Deputy Commissioner of Excise / authorised officer and the Deputy Commissioner of Excise / authorised officer shall answer the application within 10 days from its filing, in accordance with law and pass necessary orders thereon;
- (v) All other contentions shall remain open; and
- (vi) The petitioner is reserved liberty to knock at the doors of the appropriate *fora* in the event of need.

SD/-
(M.NAGAPRASANNA)
JUDGE