

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 28TH DAY OF DECEMBER, 2012

BEFORE

THE HON'BLE DR. JUSTICE JAWAD RAHIM

CRIMINAL PETITION No.7484 OF 2012

BETWEEN:

Santosh,
S/o Lingegowda
Aged about 26 years
Halalli Layout
Mandy City - 571401

... PETITIONER

(By Sri.Pavan Chandra Shetty, Advocate)

AND:

State by Srirangapattana
Police Station,
Mandya District – 571 438.

... RESPONDENT

(By Sri.Raja Subramanya Bhat, HCGP)

This Criminal petition is filed under Section 438 Cr.P.C by the Advocate for the petitioner praying that this Hon'ble Court may be pleased to enlarge the petitioner on bail in the event of his arrest in Crime No.570/2012 of Srirangapatna P.S., Mandya Dist., which is registered for the offence p/u/s 285, 286 of IPC and Sec. 3. 4. & 5 of Explosive Substance Act 1908.

This Petition coming on for Orders this day, the Court made the following:-

ORDER

Petitioner is ranked as accused No.3 in Crime No.570/2012 for the offence punishable under Section 285, 286 of IPC and Section 3, 4 and 5 of Explosive Substance Act, 1908. Apprehending arrest, he seeks for a direction to the Investigating Officer to release him on bail in the event of his arrest.

2. State has opposed the grant of bail.

3. The material allegations against the petitioner are that he is the owner of the stone quarry from where stones were being shifted in two lorries bearing registration Nos.KA-09 A-4639 and GA-09 U-1493. They found detonators 40 kgs. of Ammonium Nitrate, Dial Power-90, Explosive Class-II 125 gm measuring 25 mili meters. The said contraband was recovered from the quarrying site in Survey No.72 of Channakere Village, Srirangapatna Taluk. They also found some persons trying to use the explosive for blasting stones from the mine. Thus, the police officers seized the contraband

and registered a case for the offences indicated above showing the petitioner herein as accused No.3. There are two more persons arraigned as accused for similar offences. According to the prosecution, it is the petitioner who is responsible for the storage of such explosive without licence or permit.

The petitioner, on his part, has denied all allegations and contends, he is not the owner of stone quarry in Survey No.72 of Channakere Village, Srirangapatna Taluk. He is also not the owner of Survey No.72 of Channakere Village, Srirangapatna Taluk. According to him, he is a Civil Contractor who owns lorries and uses the vehicle for transporting the stone jelly in construction activity. Thus, he has disassociated himself from the quarrying activity.

However, there was no affirmative statement in the petition, he is not the owner of the quarry from where the contraband was recovered.

Petitioner has filed an affidavit today declaring that he is not the owner of quarrying site from where the explosive substances were recovered.

On perusal of the material, it could be seen that the recoveries is not from the lorries which he owns. But, it is from the quarrying site. In the normal course, the owner of the quarrying site would be answerable for such storage. Therefore, prima facie even at this juncture, as noticed, the material collected is not so strong as to hold the petitioner has indulged in such act in contravention of the relevant provisions of the Act. In the circumstances, I am inclined to grant the relief sought for. Hence, the following:

ORDER

The petition is allowed on the following conditions;

i) The petitioner is directed to appear before the investigating officer in charge of investigation in Crime No.570/2012 of Srirangapatna Police Station within two weeks from now and on his appearance, the investigating officer may arrest him and shall release him on bail on his executing a bond in a sum of Rs.25,000/- with one solvent surety for the likesum to the satisfaction of the said officer.

ii) He shall appear before the investigating officer as and when required and co-operate and tender himself for investigation and help in recovery, if any.

iii) He shall not leave the jurisdiction of the Trial Court without prior permission.

**SD/-
JUDGE**

Prs*