

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29<sup>th</sup> DAY OF SEPTEMBER, 2016

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

CRIMINAL PETITION NO.6877 OF 2016

Between:

Shivananda T.P.  
S/o Late Puttaveeregowda  
Aged about 55 years  
R/at Door No.102/2 New Street  
Gowdara Road, Thalakadu and post  
T. Narasipura Taluk  
Mysore District – 570 013

...Petitioner

(By Shri.Manjunath N.D., Advocate)

And:

State of Karnataka  
Through Kollegala Rural Police Station  
Chamarajanagara District – 571 131

...Respondent

(By Shri. Chetan Desai, HCGP)

This Criminal Petition is filed under Section 482 of Cr.P.C. praying to release the Trump Pick-Up BS3LCV goods bearing Reg. No.KA-53-5351 to the interim custody to this petitioner by relaxing the condition No.1 (i.e., the applicant shall furnish bank guarantee for Rs.2,00,000/- for one year and it is to be renewed from time to time, till disposal of the case) by modifying the order dated 25.08.2016 under Section 457 of Cr.P.C. passed by the Principal District and Sessions Judge, Chamarajanagara in Cr. No.117/2016.

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

### **ORDER**

Heard the learned Counsel for the petitioner.

2. The petitioner is aggrieved by the condition imposed by the Court below in releasing the vehicle which has been seized in connection with an offence punishable under Section 379 of Indian Penal Code, 1860 and under the provisions of The Karnataka Mines and Minerals (Development and Regulation) Act, 1957 as well as The Karnataka Minor Mineral Consistent Rules, 1994. The Court below while directing the release of vehicle has placed the petitioner on terms and has directed that apart from furnishing an indemnity bond and surety to secure the production of the tractor,

as and when necessary, has also directed that the petitioner to furnish a bank guarantee for a sum of Rs.2,00,000/- which according to the petitioner is onerous and beyond his means. The Court below has deemed it fit in calling upon the petitioner to furnish an indemnity bond and also a surety to ensure the production of tractor as and when necessary. However, a further imposition of furnishing a bank guarantee would entail the petitioner furnishing security to a banker and also to meet the commission charges to be paid on the bank guarantee created, this would certainly be onerous to the petitioner.

3. This Court is full conscious that the offence committed also requires to be kept in view. However, it is not the tractor which had committed the offence, but the accused involved and the tractor could be released. Otherwise, if kept idle, it results in the tractor deteriorating. It is also noticed that Section 21(4A) of the Act, has been invoked by the Court below. Therefore, in the event of the tractor again being found involved in a similar offence,

Section 21(4A) of the Act may be invoked without any reservation and the vehicle could be confiscated and sold at a public auction.

With that condition, the petition is allowed and stands modified in terms as above.

**Sd/-  
JUDGE**

\*bgn/-