

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28<sup>TH</sup> DAY OF APRIL, 2017

BEFORE

THE HON'BLE MR. JUSTICE N.K. SUDHINDRARAO

CRIMINAL PETITION NO.623/2017

**BETWEEN:**

MR. EMEKA OBINNA CLINTON  
AGED ABOUT 36 YEARS,  
S/O. EMEKA  
R/AT NO.27-EZIWEKA ROAD,  
ONITSHA, LAGOS,  
NIGERIA,

PRESENTLY R/AT PRAKRUTHI,  
VAS LANE, 1<sup>ST</sup> CROSS  
FALNIR,  
MANGALURU-575 001.

... **PETITIONER**

(BY SRI DILRAJ J. ROHIT SEQUEIRA, ADVOCATE  
**(ABSENT)**)

**AND**

THE STATE,  
REPRESENTED BY  
MANGALURU SOUTH POLICE STATION,  
REPRESENTED BY  
STATE PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA,  
BENGALURU-560 001

... **RESPONDENT**

(BY SRI S.R. DODAWAD, FOR  
SRI KRISHNA S. DIXIT, ASG)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C., PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CRIME NO.174/2016 (SPL.C. NO.202/2016) OF MANGALURU SOUTH POLICE STATION, MANGALURU CITY FOR THE OFFENCES PUNISHABLE UNDER SECTION 21(B)(C) OF NDPS ACT AND SECTION 14(a)(b)(c) OF FOREIGNERS ACT AND SECTION 12(1)(B)(C) OF PASSPORT ACT.

THIS CRIMINAL PETITION COMING FOR ORDERS ON THIS DAY THE COURT MADE THE FOLLOWING:

**ORDER**

Learned counsel for the petitioner is absent. No representation.

2. Heard Sri. S.R.Dodawad.
3. Perused the order sheet.
4. The petition is filed under Section 439 of Cr.P.C., by the accused for his enlargement in Crime No.174/2016 registered by the respondent-Mangaluru South Police Station for the offences punishable under Section 21(B)(C) of Narcotic Drugs and Psychotropic

Substances Act, 1985, Section 14 of the Foreigners Act, 1946 and Section 12(1)(B)(C)of Passports Act, 1967.

5. Learned counsel Sri S.R. Dodawad for Sri Krishna S. Dixit, learned ASG appearing for the respondent-State is present and submits that on receiving credible information on 25.08.2016 at 8.30 A.M., with regard to a foreigner, who is accused herein, attempting to sell cocaine illegally, the respondent-police raided the spot along with Panchas and seized 4 packets of the said contraband substance weighing 4.050 grams of cocaine worth of 2,00,000/-, cash of Rs.39,000/- and one Nokia Mobile handset under a Mahazar. It is also stated that the petitioner who is stated to be citizen of Nigeria had over stayed in India since 04.06.2016 and also has not informed the concerned authority regarding his stay in India. This violates Foreigners Act as well.

6. As stated above, learned counsel for the petitioner is not available for clarification. It is to be seen that the petitioner is stated to be a foreigner, citizen of Nigeria and is said to have expired his visa on 04.06.2016. Therefore, releasing of him under Section 439 of Cr.P.C. is neither appropriate nor called for at this stage.

Accordingly, petition is rejected.

Sd/-  
JUDGE

SBS\*