

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 A.S. BOPANNA

**WRIT PETITION NO.13835/2017 (GM-RES)**

**BETWEEN:**

SRI K.MAILAPPA GOWDA,  
S/O.LATE AMMAIAH GOWDA,  
AGED 65 YEARS,  
RESIDENT OF KOMBAR VILLAGE,  
KOMBAR VILLAGE AND POST,  
PUTTU TALUK,  
D.K.-574 230.

...PETITIONER

(BY SRI PRAVEEN KUMAR K.N., ADV.)

**AND:**

1. THE STATE OF KARNATAKA,  
REPRESENTED BY SECRETARY  
TO GOVERNMENT,  
DEPARTMENT OF FOREST,  
ECOLOGY & ENVIRONMENT,  
GOVERNMENT OF KARNATAKA,  
7<sup>TH</sup> FLOOR, MULTISTORIED BUILDING,  
BANGALORE-560 001.

2. THE DEPUTY CONSERVATOR OF FOREST,  
MANGALURU DIVISION,  
MANGALURU-575 001.

3. THE RANGE FOREST OFFICER,  
SUBRAMANYA RANGE,  
SULLIA TALUK,  
D.K.-574 238.

...RESPONDENTS

(BY SRI R.B.SATYANARAYANA SINGH, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO RELEASE THE BANK GUARANTEE NO.1/2006 FURNISHED FROM SYNDICATE BANK KADABA BRANCH IN RESPECT OF RELEASE OF HIS VEHICLE BEARING NO.KA-19-M-9067 IN OR NO.1/2006-07 AS PER HIS RECENT REPRESENTATION DATED 10.01.2017 PRODUCED AT ANNEXURE-A TO MEET THE ENDS OF JUSTICE.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The petitioner is before this Court seeking issue of mandamus to direct the respondents to release the Bank Guarantee No.1/2006 furnished from the Syndicate Bank, Kadaba Branch as a guarantee for release of his vehicle bearing No.KA-19-M-9067 in the forest offence case in O.R.No.1/2006-2007 which had been initiated against the petitioner. The petitioner, in that light is seeking that the communication dated 30.12.2016 as at Annexure-D calling upon the petitioner to renew the Bank Guarantee be quashed.

2. The respondents No.2 and 3 had initiated action against the petitioner by registering a forest offence case in O.R.No.1/2006-2007 and in the said

proceedings, the Jeep bearing No.KA-19-M-9067 was seized. The petitioner had accordingly made an application for release of the said vehicle. Through the order dated 27.06.2006, the vehicle was ordered to be released, subject to the petitioner furnishing the Bank Guarantee, since the main matter had not yet been disposed of by the competent authority. The petitioner has accordingly furnished the Bank Guarantee and secured the release of the vehicle.

3. Thereafter, the said proceedings had culminated in the Criminal Appeal No.38/2014. The learned Appellate Judge, through the judgment dated 09.03.2016 has allowed the appeal and the order passed in O.R.No.1/2006-2007 dated 24.01.2014 was set aside and the interim custody of the Jeep, which had been made in favour of the petitioner was made absolute. If that be the position, the continuation of the Bank Guarantee in favour of the respondents would not arise. In that view, the petitioner claiming to be aggrieved by

the communication calling upon the renewal of the Bank Guarantee is before this Court.

4. The learned Government Advocate, who has secured instructions in the matter would submit that the respondents are contemplating filing an appeal against the judgment dated 09.03.2016 passed in Criminal Appeal No.38/2014. It is in that view, the petitioner was called upon to renew the Bank Guarantee, which is required to be kept enforceable, until such action is taken by the respondents.

5. Such submission of the learned Government Advocate cannot be accepted in the present facts for the reason that the judgment in Criminal Appeal No.38/2014 was passed as far back on 09.03.2016 and there is no material whatsoever to indicate that steps had been initiated immediately thereafter nor to indicate that the appeal has been filed against the same.

6. In such circumstance, when the proceedings which had been initiated against the petitioner as far

back on 2006 has culminated in the order passed in Criminal Appeal and more than a decade has passed from the date when the original proceedings was initiated, the order in the appeal was also passed an year back on 09.03.2016, whereby the order releasing the Jeep has been made absolute, there would be no justification for the respondents to seek for renewal of the Bank Guarantee, as has been presently sought through the communication dated 30.12.2016.

7. Accordingly, the communication dated 30.12.2016 is quashed. The respondent No.2 is directed to return the original Bank Guarantee submitted by the petitioner within four weeks from the date on which a copy of this order is furnished.

The petition is accordingly ***disposed*** of.

**Sd/-  
JUDGE**