

THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30<sup>TH</sup> DAY OF APRIL, 2020

BEFORE:

THE HON'BLE MRS. JUSTICE S.SUJATHA

**CRIMINAL PETITION No.2196/2020**

**BETWEEN:**

ADITYA KUMAR  
S/O NANDA KUMAR RAO  
AGED ABOUT 21 YEARS,  
R/AT No.303, RELIABLE DWARAKA APARTMENT,  
3<sup>RD</sup> FLOOR, DWARAKANAGAR,  
HOSAKEREHALLI 3<sup>RD</sup> STAGE,  
BANASHANKARI  
BANGALORE-560085. ... PETITIONER

(BY SRI HASHMATH PASHA, SENIOR COUNSEL A/W  
SRI SYED MUZAKKIR AHMED, ADV.)

**AND:**

STATE OF KARNATAKA BY  
KENERI POLICE STATION,  
BANGALORE CITY  
REP. BY LEARNED  
STATE PUBLIC PROSECUTOR  
HIGH COURT OF KARNATAKA,  
BANGALORE-560001 ...RESPONDENT

(BY SRI M.DIVAKAR MADDUR, HCGP.)

THIS CRIMINAL PETITION FILED UNDER SECTION 439  
CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN  
CR.NO.355/2019 OF KENERI P.S., BENGALURU FOR THE  
OFFENCE P/U/S 8(c), 21(C), 20(a)(b) OF NDPS ACT.

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

**ORDER**

The petitioner – Accused No.2 in Crime No.355/2019 registered by the Kengeri Police for the offence punishable under Sections 8[c], 21[c], 20[a][b] of the Narcotic Drugs and Psychotropic Substances Act, [‘NDPS Act’ for short], having suffered rejection of his bail petition in CrI.Mis.No.151/2020 dated 13.01.2020 by the XXXIII Additional City Civil and Sessions Judge and Special Court for NDPS, Bengaluru, has filed this petition under Section 439 of CRPC, 1973 seeking for his enlargement on bail.

2. Learned counsel for the petitioner placing reliance on the CrI.P.No.2044/2020 dated 21.04.2020 submitted that the accused No.1 involved in the very same Crime No.355/2019 registered by the Kengeri police has been enlarged by this Court on bail subject to certain conditions stipulated thereunder. The petitioner-accused No.3 is in custody since 13.12.2019 and is

innocent of the alleged offences. The seizure of contraband substance was made from the flat of accused No.1. The seized substances are found to be below commercial quantity and as such this Hon'ble Court held in the case of the accused No.1 that Section 37 of the NDPS Act is not attracted.

3. Learned counsel High Court Government Pleader appearing for the respondent-State opposes the petition.

4. Having heard the learned counsel for the parties and on perusal of the material on record, this Court is of the considered opinion that the petitioner requires to be enlarged on bail for the reason that the NDPS article seized is not supported by the scientific analysis in terms of the quality and quantity. Moreover, such seizure of NDPS article is made from the flat of accused No.1 who is already on bail pursuant to the order of this Court passed in CrI.P.No.2044/2020

wherein it has been observed that no charge sheet was submitted within 60 days as required under Section 167(2) of the Cr.P.C.

5. No ground is made out by the respondent-State to consider the case of the accused No.3 – petitioner on a different footing than that of accused No.1 to deny the grant of bail. In the circumstances, the petition is allowed.

The petitioner shall be enlarged on bail, subject to the conditions stipulated hereunder:

- i) The petitioner shall execute his personal bond for a sum of Rs.2,00,000/- [Rupees Two Lakhs Only] with two sureties for the like-sum each, to the satisfaction of the jurisdictional court. However, this condition of the sureties shall be complied within a period of two weeks after the courts start functioning normally.
- ii) The petitioner shall mark his attendance once in a fortnight in the jurisdictional Police Station and shall fully co-operate with the investigation/further investigation; petitioner shall not intimidate or influence any prosecution witness nor shall he do any act that would impair the prosecution case.

- iii) The petitioner shall participate in the proceedings of the Court below on every date of hearing and shall not remain absent save with the prior leave of the learned judge of the jurisdictional Court; petitioner shall not leave the jurisdictional limits of the Trial Court without leave of the said court.

The learned Registrar [Judicial] is requested to transmit this order to the concerned Jail Authorities by e-mail or otherwise, as early as possible for information and needful implementation.

**Sd/-  
JUDGE**

NC