

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2021

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 3511 OF 2021

BETWEEN:

SRI DEVARAJU. C.K.,
S/O KALEGOWDA,
AGED ABOUT 54 YEARS,
R/O NO. D3/4600,
SRI BAIRAVA NILAYA,
22ND CROSS, V.V.NAGARA,
KALLAHALLI,
MANDYA CITY.

... PETITIONER

(BY SRI. H. J. ANANDA, ADVOCATE)

AND:

STATE BY NAGAMANGALA
RURAL POLICE STATION,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001

... RESPONDENT

(BY SRI. ROHITH B J, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION
439 (2) OF CR.P.C. PRAYING TO ENLARGE THE
PETITIONER ON BAIL IN CRIME NO. 137/2019 OF
NAGAMANGALA RURAL POLICE STATION, MANDYA

DISTRICT FOR THE OFFENCE PUNISHABLE UNDER SECTION 3 AND 5 OF EXPLOSIVE SUBSTANCES ACT, PENDING ON THE FILE OF CIVIL JUDGE (SR.DN) AND J.M.F.C. COURT, NAGAMANGALA, MANDYA DISTRICT BY RELAXING THE CONDITION NO.1 IN THE BAIL ORDER DATED 04.11.2019 PASSED BY THIS HON'BLE COURT IN CRL.P. NO. 7376/2019.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THIS DAY, THROUGH VIDEO CONFERENCE THE COURT MADE THE FOLLOWING:

ORDER

1. The Petitioner is before this Court seeking to be enlarged on bail in Crime No. 137/2019 registered by Nagamangala Rural Police station, Mandya District for offences punishable under Sections 3 and 5 of Explosive Substances Act, 1908 pending on the file of the Court of Civil Judge (Sr.Dn) and JMFC Court, Nagamangala, by relaxing condition No. 1 in the bail order dated 04.11.2019 passed by this Court in Criminal Petition No. 7376.2019.
2. The Petitioner had sought for being enlarged on anticipatory bail in the event of his arrest in the above Crime No. 137/2019 by filing an application

under Section 438 of Code of Criminal Procedure before the Principal Sessions Judge at Mandya in CrI. Misc. No. 867/2019 which came to be rejected on 01.10.2019. Thereafter the Petitioner approached this Court in Criminal Petition No. 7376/2019 which came to be allowed by this Court vide its order dated 04.11.2019 by imposing certain conditions. One of the condition was that the Petitioner is required to surrender himself before the Investigating Officer within 10 days from the date of receipt of certified copy of the order.

3. From the documents produced at Annexure-D, it is seen that the certified copy of the order was received by the Petitioner on 12.11.2019 and as such the Petitioner was required to surrender before the Investigating Officer before 22.11.2019 which has not been done. The Petitioner after a lapse of nearly 15 months from the said order is before this Court seeking for relaxation of the said condition.

4. Sri H. J. Ananda, learned counsel for the Petitioner would submit that the Petitioner was laid up for typhoid in the month of November 2019 and thereafter on account of the prevailing Covid 19 pandemic, he was unable to surrender himself and as such he has sought for relaxation of condition No. 1.
5. Heard Sri H. J. Ananda, learned counsel for the Petitioner and Sri Rohith. B. J., learned HCGP for the Respondent.
6. The facts are as aforestated. The order passed on 04.11.2019 by this Court was required to be complied within a period of 10 days from the date of receipt of certified copy of the order which was so received on 12.11.2019. The Petitioner has now approached this Court by filing the petition on 23.04.2021 seeking for relaxation of condition No.1. Hence, I am of the considered opinion that there are

no bonafides in the above petition and the above petition is completely malafide. The Petitioner has not surrendered himself or made any attempt to approach this Court even though he recovered from alleged typhoid in the month of December 2019. The Contention that the Petitioner was unable to surrender due to prevailing pandemic Covid-19 or approach the Court cannot also be accepted since the present petition has also been filed during the prevailing Pandemic. Covid19 Pandemic cannot be used as an excuse for every act of commission or omission.

7. That apart the Covid-19 Pandemic has started at the end of March 2021, and there was more than enough time for the Petitioner to surrender himself before the Investigating Officer or approach this Court after recovery from typhoid. The same has not been done. Hence, I am of the considered opinion that there is no equitable discretion which is required to be

extended in favour of the Petitioner, and accordingly,
the petition is dismissed.

8. The Petitioner is directed to deposit cost of a sum of
Rs. 2,000/- within a period of 15 days from today
before the Legal Services Authority.

**Sd/-
JUDGE**

mbb