



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF DECEMBER, 2022

BEFORE

THE HON'BLE MR JUSTICE C M JOSHI

CRIMINAL PETITION NO. 12561 OF 2022

BETWEEN:

SRI. D. S. RAMAIAH
S/O. SHIVANNA
AGED ABOUT 53 YEARS
R/AT MAYASANDRA VILLAGE,
KUNIGAL TAUKE
TUMAKURU DISTRICT - 572 123.

...PETITIONER

(BY SRI. HASMATH PASHA, SENIOR COUNSEL
FOR SRI.KARIAPPA N A. ADVOCATE)

AND:

STATE OF KARNATAKA
BY HULIYURUDURGA POLICE STATION
TUMAKURU - 572 123

(REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE - 560 001.)

...RESPONDENT

(BY SRI.H.S.SHANKAR, HCGP, ADVOCATE)

Digitally
signed by T S
NAGARATHNA
Location: High
Court of
Karnataka



THIS CRIMINAL PETITION IS FILED U/S.438 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CR.NO.197/2022 OF HULIYURDURGA P.S., TUMKURU DISTRICT FOR THE OFFENCE P/U/S 4,5 OF EXPLOSIVE SUBSTANCES ACT AND SEC.9-B(1)(b) OF EXPLOSIVE ACT AND UNDER SEC.286 R/W 34 OF IPC.

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

ORDER

This petition is filed by the petitioner/accused No.2 under Section 438 of Cr.P.C., seeking anticipatory bail in the event of his arrest in Cr.No.197/2022 registered by Huliyaurdurga P.S., Tumkur District, for the offences punishable under Sections 4,5 of Explosive Substances Act and Section 9-B(1)(B) of Explosive Act and under Section 286 R/W 34 OF IPC.

2. Heard the learned Senior counsel Sri Hasmath Pasha, for Sri Kariappa N.A., for the petitioner and learned HCGP for the State.

3. The factual matrix of the case discloses that, when a Police Constable who was engaged in collecting secret information visited the spot of the incident, a person was found



to be standing near a rock and on an enquiry, he stated that he was engaged by the petitioner herein for the purpose of breaking the rock and for the purpose of his work, he has secured tractor compressor on hire basis and he was using explosive like gelatins for the purpose of exploding the rocks. It was found by the complainant- police constable that dynamo and wire were found and the wire pieces were also found at the place where the rock was broken. Therefore, he concluded that it was a place of using explosive material and lodged the complaint whereby Crime No.197/2022 has been registered by Huliurdurga Police station of Kunigal taluk.

4. On perusal of the FIR and other papers which are furnished before this Court, it is found that there is no specific mention that the petitioner herein had authorised for procurement of explosive substances by the accused No.1. Secondly, there is no specific mention that the explosives were used or found at the spot. There is no mention of the finding of any explosive substance like gelatin sticks. What is available on record is, some wire pieces and dynamo. Therefore, it can not be concluded that the petitioner herein had authorised accused



No.1 to use explosive substances in carrying out the work of breaking of rocks for the purpose of formation of pond which was done under the government scheme. Therefore, it would be premature to come to the conclusion that the petitioner was involved in commission of the offence. Anyhow, the matter do not require the arrest and interrogation of the petitioner herein. Therefore, the petition deserves to be allowed. Hence, the following:

ORDER

The Criminal petition is ***allowed***.

Petitioner/accused No.2 is ordered to be enlarged on bail in the event of his arrest in Cr.No.197/2022 of Huliurdurga P.S registered for the offences punishable under Sections under Sections 4,5 of Explosive Substances Act and Section 9-B(1)(B) of Explosive Act and Section 286 R/W 34 OF IPC, subject to the following conditions:

- i) Petitioner shall execute personal bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) along with one surety for the like sum to the satisfaction of the arresting Officer;*



- ii) Petitioner shall appear before the Investigating Officer within two weeks from the date of this order and shall cooperate for the investigation as and when required.*
- iii) Petitioner shall not directly or indirectly tamper with the prosecution witnesses in any way;*
- iv) Petitioner shall mark his attendance before the concerned Police on every first Sunday of the month for a period of six months or till the filing of the charge sheet, whichever ever is earlier.*

In view of the disposal of the main petition, prayer sought in IA No.1/2022 does not survive for consideration. Hence, it is disposed of.

**Sd/-
JUDGE**

tsn*
List No.: 1 Sl No.: 115