



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO. 12533 OF 2025 (GM-RES)

BETWEEN:

1. MR.RIZWAN PASHA @ MEEJU
S/O JABEEULLA,
AGED ABOUT 24 YEARS,
R/AT SHIVAJI ROAD,
LASHKAR MOHALLA,
SHIVAMOGGA-577 201.
2. MR. AZARUDDIN @ AZAR
S/O JAHARUDDIN,
AGED ABOUT 24 YEARS,
R/AT DARGA COMPOUND,
LASHKAR MOHALLA,
SHIVAMOGGA - 577 201.

(NOW BOTH ARE IN JUDICIAL CUSTODY
CENTRAL JAIL, UDUPI).

...PETITIONERS

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

AND:

1. STATE OF KARNATAKA BY
KOTE POLICE STATION,
SHIVAMOGGA TOWN.
2. CHIEF SUPERINTENDENT,
CENTRAL JAIL, UDUPI.

(R.1 AND R.2 ARE REPRESENTED BY
LEARNED STATE PUBLIC PROSECUTOR/
GOVERNMENT ADVOCATE
HIGH COURT OF KARNATAKA,
BANGALORE - 560001).





3. SMT. SHAFINAAZ
W/O VAZEER KHAN,
AGED ABOUT 40 YEARS,
R/AT NO. J.P NAGAR, 2ND CROSS,
NEAR NETHAJI CIRCLE,
SHIVAMOGGA TOWN.

...RESPONDENTS

(BY SRI. M.V. ANOOP KUMAR, HCGP FOR R1 AND R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA AND UNDER SECTION 528 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 PRAYING TO QUASH THE ARREST DATED 12-5-2024 IN CRIME NO.75/2024 OF KOTE POLICE STATION, SIVAMOGGA AND CONSEQUENTLY DIRECT RESPONDENT NO.2 TO RELEASE THEM FORTHWITH BECAUSE OF ILLEGAL ARREST AND DETENTION AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

ORAL ORDER

The petitioner who was arrested on 12.5.2024 in crime No.75/2024 for the offences punishable under Sections 143, 144, 147, 148, 302 r/w Section 149 of IPC is before this Court seeking relief.

2. The primary contention of the petitioner is that no grounds of arrest were disclosed and served on the petitioner at the time of arrest and the same stands vitiated for non-compliance of provision of Article 22(1) of Constitution of India and under Section 50 and 50A of Cr.P.C.

3. The learned High Court Government Pleader on receiving instruction submits that the grounds of arrest were served on the petitioner.



4. The Hon'ble Apex Court in the case of **Vihaan Kumar -vs- State of Haryana & anr. - in 2025 INSC 162**, following the earlier decision has held that the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional requirement. Article 22 is included in Part III of the Constitution under the heading of fundamental rights. Thus, it is the fundamental right of every person arrested and detained in custody to be informed of the grounds of arrest as soon as possible. If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee guaranteed under Article 22(1). It will also amount to depriving the arrestee of his liberty. The reason is that, as provided in Article 21, no person can be deprived of his liberty except in accordance with the procedure established by law.

5. In the light of the decision of the Apex Court in the aforesaid case, the arrest of the petitioner is held to be illegal and without authority of law for non-compliance of provision of Article 22(1) of Constitution of India and under Section 50 and 50A of Cr.P.C. Therefore the petitioner has established a prima facie case to release him from judicial custody forthwith.

6. Accordingly, this petition is allowed. Respondent No.2-the Chief Superintendent, Central Jail, Udupi, is hereby directed to release the petitioner-accused forthwith in S.C. No.170/2024 on the file of the 1st Additional District and Sessions Judge, Shivamogga (arising out of Crime No.75/2024, registered by the Kote Police Station), subject to the following conditions:



i) The petitioner-accused shall execute a personal bond for a sum of Rs.1,00,000/- with one local surety for the likesum to the satisfaction of the Trial Court within a period of two weeks from the date of his release;

ii) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

iii) The petitioner shall appear before the Trial Court as and when required;

iv) The petitioner shall not involve in similar offences in future;

v) The petitioner shall not leave the territorial limits without prior permission of the Jurisdictional Trial Court

vi) The concerned Jail Authorities are hereby directed to release the petitioner forthwith without any delay and immediately upon a receipt of copy of this order, if he is not required for any other cases, if any.

vii) The Registry is directed to communicate this order to the Jail Authorities concerned forthwith without any delay through e-mail and telephonically.

Sd/-
(HEMANT CHANDANGOUDAR)
JUDGE