



**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

CRIMINAL PETITION NO.201513 OF 2025

(482(Cr.PC)/528(BNSS))

BETWEEN:

SANTOSH S/O BANDEPPA JAMADAR,
AGE: 38 YEARS, OCC: AGRICULTURE,
R/O TADKAL VILLAGE,
ALAND TQ. DIST. KALABURAGI.

...PETITIONER

(BY SMT/MISS. RAJESHWARI MALLINATH, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH EXCISE INSPECTOR,
ALAND RANGE,
REP. BY THE LEARNED
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
KALABURAGI-585107.

...RESPONDENT

(BY SRI. SRI. GOPALKRISHNA B. YADAV, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. (OLD), UNDER SECTION 528 OF BNSS (NEW), PRAYING TO QUASH THE ENTIRE FURTHER PROCEEDINGS INITIATED IN PURSUANCE OF C.C.NO.45/2024 (AIRISING OUT OF CRIME NO.41/2022-23) OFFENCES PUNISHABLE UNDER SECTION 11, 15, 32, 37, 38(A) AND 43 OF THE KARNATAKA EXCISE ACT, 1965 PENDING BEFORE THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS, ALAND.



THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16.12.2025 COMING ON FOR 'PRONOUNCEMENT OF ORDERS' THIS DAY, THE COURT MADE THE FOLLOWING;

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

CAV ORDER

Captioned petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of the proceedings pending in CC No.45/2024 arising out of Crime No.41/2022-2023 registered by Excise Inspector, Aland Range for the offences punishable under Sections 11, 15, 32, 37, 38(A) and 43 of the Karnataka Excise Act, 1965 (herein after referred to as 'the Act') pending on the file of JMFC Court, Aland.

2. The facts leading to the case are as under:

As per the prosecution case, on 22.03.2023 at about 8.00 p.m., the Excise Inspector of Aland Range, acting on credible information, conducted a raid near Deggi Cross, which is stated to be a remote location. During the raid,



five plastic pouches, each containing one litre of illicit country liquor, in all measuring five litres, along with a two-wheeler bearing registration No. KA-34/W-6295, were seized. A panchanama was drawn at the spot and Crime No.41/2022-23 came to be registered for the alleged offences. The FIR was thereafter forwarded to the jurisdictional Magistrate and is stated to have been received on 23.03.2023 at about 12.20 p.m.

3. Learned counsel for the petitioner, reiterating the grounds urged in the petition, contends that there is non-compliance of the mandatory requirement under Section 54 of the Karnataka Excise Act, 1965, inasmuch as the reasons for conducting a search without warrant are neither recorded nor reflected in the panchanama. Referring to the search warrant and seizure documents, learned counsel submits that the statutory mandate of Section 54 has not been complied with in letter or spirit. It is further contended that though the search is stated to have been conducted on 22.03.2023 at about 7.30 p.m.,



the FIR reached the jurisdictional Magistrate only on the next day at 12.20 p.m., resulting in an unexplained delay which, according to the petitioner, vitiates the entire proceedings. Reliance is placed on a decision of a Coordinate Bench of this Court to contend that absence of recorded reasons under Section 54 is fatal to the prosecution, and on that ground, the petitioner seeks quashing of the proceedings.

4. Per contra, learned High Court Government Pleader, referring to the materials placed on record, submits that the raid was conducted at a remote place, namely Deggi Cross, based on credible information, and therefore obtaining a search warrant was impracticable. It is contended that the exercise of power under Section 54 of the Act in emergent circumstances can be reasonably inferred from the panchanama and seizure records, even if detailed reasons are not explicitly recorded therein. With regard to the delay in forwarding the FIR, learned HCGP submits that the seizure was effected during night hours in



a remote area and forwarding of the FIR to the Magistrate on the next day cannot, by itself, be construed as fatal. It is further contended that no prejudice is shown to have been caused to the petitioner and that the Hon'ble Supreme Court has consistently held that mere delay in forwarding the FIR is not a ground to quash the proceedings unless the delay is deliberate or actuated by mala fides, which is not the case on hand.

5. Having heard the learned counsel appearing for the parties and on perusal of the materials on record, the following points arise for consideration:

"i) Whether non-reflection of explicit reasons recorded under Section 54 of the Karnataka Excise Act, 1965, in the panchanama and search records, is fatal to the prosecution?

ii) Whether the delay in forwarding the FIR to the jurisdictional Magistrate vitiates the proceedings?



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iii) Whether the case involves such exceptional circumstances warranting invocation of the inherent powers of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023?"

6. Before advertng to the merits of the rival contentions, it would be apposite for this Court to examine the legislative scheme and underlying intent behind Sections 53 and 54 of the Karnataka Excise Act, 1965. Section 53 of the Act empowers authorised Excise Officers to enter, inspect, search, seize and arrest, ordinarily upon obtaining prior permission from the jurisdictional Magistrate. The power conferred under Section 53 is essentially preventive and enabling in nature. The Legislature, while enacting the said provision, has consciously recognised that offences relating to illicit liquor often require swift and decisive operational action, frequently during odd hours and in difficult or remote terrain.



7. Anticipating situations where obtaining prior judicial authorisation may be impracticable or defeat the very purpose of enforcement, the Legislature has incorporated Section 54 of the Act as an exception to the general rule. Section 54 permits search without warrant, subject to the safeguard of recording reasons. The statutory requirement of recording reasons serves a dual purpose: first, to ensure accountability and curb arbitrary exercise of power; and second, to strike a balance between individual liberty and the larger public interest in effective enforcement of excise laws, while recognising the exigencies inherent in such operations.

8. Though the recording of reasons under Section 54 is undoubtedly a statutory mandate, the provision cannot be read in a pedantic or inflexible manner divorced from ground realities. The Legislature could not have intended that enforcement agencies, while acting under emergent circumstances such as night raids or sudden interceptions based on credible information, must comply



with the requirement in a ritualistic or hyper-technical manner. Therefore, the nature and extent of compliance with Section 54 would necessarily depend on the facts and circumstances of each case. In appropriate cases, such compliance can be inferred from contemporaneous records and surrounding circumstances.

9. Turning to the facts of the present case, the raid is stated to have been conducted at about 8.00 p.m. at Deggi Cross, admittedly a remote location, pursuant to credible information. The seizure of illicit liquor was effected during a sudden interception. The panchanama itself discloses that the Excise Inspector was anticipating the movement of a two-wheeler at odd hours and that upon noticing the raid, the rider abandoned the vehicle and fled from the spot. These circumstances clearly indicate that the operation was conducted in an emergent situation at a secluded location.

10. In such a scenario, insisting upon prior procurement of a search warrant or expecting detailed



recording of reasons at the spot would be impractical and unrealistic. To demand strict literal or hyper-technical compliance with Section 54 in these circumstances would defeat the very object and purpose of the Act. Whether detailed reasons were recorded elsewhere, and whether the facts justified dispensation of elaborate recording at the time of search, are matters that fall within the realm of evidence. These are issues to be examined during trial and cannot be conclusively adjudicated at the threshold while exercising inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

11. The judgments relied upon by the learned counsel for the petitioner are clearly distinguishable on facts. In the cases cited, there was a complete absence of any material whatsoever indicating invocation or exercise of powers under Section 54 of the Act. In the present case, however, the panchanama and seizure records disclose emergent circumstances warranting immediate



action. Hence, the reliance placed on those decisions is misconceived and does not advance the petitioner's case.

12. Insofar as the contention relating to delay in forwarding the FIR to the learned Magistrate is concerned, it is well settled by a catena of decisions of the Hon'ble Supreme Court as well as this Court that mere delay in forwarding the FIR, by itself, does not vitiate the proceedings, unless the delay is shown to be deliberate, unexplained or actuated by mala fides causing prejudice to the accused. In the present case, the seizure was effected during night hours at a remote location, and the FIR reaching the Magistrate on the following day cannot be construed as fatal. No prejudice is demonstrated to have been caused to the petitioner.

13. The inherent power under Section 528 of BNSS is extraordinary in nature and is required to be exercised sparingly, with great circumspection, and only to prevent abuse of process of law or to secure the ends of justice. Such jurisdiction cannot be invoked to conduct a roving



enquiry or a mini trial. In the present case, a prima facie case is made out and illicit country liquor is stated to have been seized. The grounds urged by the petitioner, at the highest, constitute matters of defence which are required to be tested in a full-fledged trial and not at the stage of invoking inherent jurisdiction. For the reasons stated supra, the point Nos. i, ii and iii are answered in the ***negative.***

14. For the foregoing reasons, this Court does not find any exceptional circumstances warranting interference under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Accordingly, this Court proceeds to pass the following:

ORDER

The criminal petition stands ***dismissed.***

**SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

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List No.: 3 Sl No.: 4
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