



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

CRIMINAL PETITION NO.6311 OF 2026 (482(Cr.PC) / 528(BNSS))

BETWEEN:

JOHN EGWUATU CHINEDU
AGED ABOUT 29 YEARS
S/O JOHN EGWUATU,
R/O NO.06, SAHANA NILAYA
2ND FLOOR, 5TH CROSS
B. CHANNASANDRA,
RAMAMURTHY NAGARA
BANGALORE – 560 043.
PERMANENT RESIDENT OF ANAM VILLAGE,
ANAMBRA WEST LOCAL GOVT
ANAMBRA, NIGERIA 432 109.

...PETITIONER

(BY SRI. NISHIT KUMAR SHETTY, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY STATION HOUSE OFFICER,
RAMAMURTHY POLICE STATION,
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING,
BANGALORE-560 001.
2. G. LAKSHMIKANTAYYA
AGED ABOUT 40 YEARS,
POLICE INSPECTOR,
ANTI NARCOTICS WING, CCB,
BENGALURU CITY-560 001.
3. THE FOREIGNERS REGIONAL,
REGISTRATION OFFICE (FRRO),
5TH FLOOR, A BLOCK, TTMC,
BMTc BUS STAND BUILDING,

Digitally
signed by
CHANDANA
B M

Location:
High Court
of Karnataka



K.H. ROAD, SHANTINAGAR,
BENGALURU-560 027.

...RESPONDENTS

(BY SRI. DIWAKAR MADDUR, HCGP FOR R-1 & R-2;
SRI. H. SHANTHI BHUSHAN, DSGI, FOR R-3)

THIS CRL.P. IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE PETITIONER IN SPL.C.C.NO.1925/2022 (CR.NO.52/2021 OF RAMAMURTHYNAGAR P.S) PENDING ON THE FILE OF THE XXXIII ADDL.CITY CIVIL AND SESSIONS JUDGE AND SPL.JUDGE (NDPS) CCH-33 BENGALURU FOR THE OFFENCE P/U/S 8(C), 21(B), 22(B) OF NDPS ACT 1985 AND SEC.14 OF FOREIGNERS ACT.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner seeks the following reliefs:

To quash the entire proceedings against the petitioner in Sp.C.C.No.1925/2022 (Cr.No.52/2021 of Ramamurthynagara Police Station) pending on the file of XXXIII Addl. City & Sessions Judge & Spl. Judge (NDPS) (C.C.H.33), Bengaluru for the offences under Section 8(c), 21(B), 22(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 14 of Foreigner's Act, in the interest of justice.

2. Heard learned counsel for the petitioner and learned HCGP for respondent Nos.1 and 2 and learned DSGI for respondent No.3.



3. In addition to reiterating the various contentions urged in the petition and referring to the material on record, learned counsel for the petitioner submits that since the petitioner is already in the Detention Centre pursuant to the impugned proceedings, the present petition may be disposed of in the light of the judgment of this Court in the case of ***Mis. Osibanjo Mariam Mary Vs. State of Karnataka and others – Crl.P.No.3019/2026 dated 13.03.2026*** by directing respondent Nos.1 and 2 – State to withdraw the prosecution and intimate the same to respondent No.3, who shall thereafter take necessary steps to deport the petitioner back to his country i.e., Nigeria within a stipulated time frame.

4. Per contra, learned HCGP for respondent Nos.1 and 2 and learned DSGI for respondent No.3 submits that the procedure prescribed by this Court in the case of ***Emeka James Iwoba and another Vs. The State of Karnataka and others – Crl.P.No.11347/2025 dated 04.03.2026*** may be followed by this Court while disposing of the present petition.



5. In *Osibanjo Mariam Mary's* case *supra*, this Court has held as under:

"Petitioner – accused No.1 is before this Court calling in question proceedings in S.C.No.42/2026 (arising out of Crime No.317/2025), pending before the VIII Additional District and Sessions Judge and Special Judge (NDPS), Bengaluru Rural District, Bengaluru, for the offences under Sections 20(b) and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. Heard Sri T.A.Basavaraju, learned counsel for petitioner, Sri B.N.Jagadeesha, learned Additional State Public Prosecutor for respondent Nos.1 and 2 and Sri Shanthi Bhushan H., learned Deputy Solicitor General of India for respondent No.3.

3. On a credible information by the police on 29.08.2025, that a woman by name Osibanjo Mariam Mary, residing in a house bearing No.74, 3rd Floor, Avalahalli Village, Bengaluru, is selling Cocaine to the public and students and earning illegally, conduct a raid at the said place, arrested the petitioner and seized intermediate quantity of 21 grams of Cocaine from the said house. A crime is then registered against the petitioner, who is said to be a Nigerian citizen, in Crime No.317/2023. Investigation ensue and a charge sheet is filed before the concerned Court. The matter is now pending in Spl.C.No.42/2026. The petitioner was granted bail on 19.11.2025, on certain conditions. Despite granting bail, the petitioner is unable to



be released as the surety condition imposed while granting bail is not fulfilled by the petitioner. The petitioner is able to produce only one surety as the petitioner is a Nigerian citizen and does not have any known person to produce the second surety as is directed by the concerned Court. The petitioner wants to go back to her country – Nigeria and therefore, is before this Court seeking quashment of the proceedings and also a direction to the FRRO to send her back to her country and till then, she may be remanded to detention centre, as her Visa documents have expired.

4. Learned counsel for the petitioner would take this Court through the averments made in the subject criminal petition and submits that the petitioner is wanting to go back to her country and till such time, the petitioner shall be remanded in detention centre at FRRO.

5. Sri Shanthi Bhushan H., learned Deputy Solicitor General of India appearing for respondent No.3 – the Foreigners Regional Registration Office would submit that steps will be taken in terms of the Model Standard Operating Procedure ('SOP' for short).

6. The Additional State Public Prosecutor representing the respondent – State would also submit that in terms of the Standard Operating Procedure, if prosecution is withdrawn, the petitioner can be consequently remanded to the FRRO.

7. I have given my anxious consideration to the submissions made by the learned counsel for the parties and have perused the material on record.



8. *The afore-narrated facts are not in dispute. The petitioner hails from Nigeria. She was taken into custody from her house she was residing on the credible information of the informant and 21 grams of Cocaine, which is an intermediate quantity was recovered from the house of the petitioner. Therefore, the afore-quoted offences sprang and the crime is registered, which is pending in Spl.C.No.42/2026. She was granted bail but is not in a position to comply with the conditions of surety and therefore, she is not been released. Though the concerned Court has already granted bail, the petitioner cannot be set at liberty only on the ground of want of surety.*

9. *The plea of the petitioner before this Court is that, she wants to go back to her country. The issue would be whether pending prosecution against the petitioner for the afore-quoted offences, can the petitioner be sent back to her country - Nigeria. The Government of India on 25.11.2025, has issued a Standard Operating Procedure, governing the withdrawal of prosecution in cases involving foreign nationals, with the avowed objective of facilitating their deportation. The preamble to the said SOP records circumstances which necessitated its formulation. The preamble is as follows:*

“I am directed to say that misuse of legal procedures by certain foreign nationals who intentionally implicate themselves in criminal offences to delay deportation or gain prolonged stay in the India has been observed by the Law Enforcement Agencies in various States/UTs. Oncethe case is registered, these foreigners use



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various legal and procedural tactics viz., repeated adjournments sought on medical grounds, change of counsel, filing frivolous applications before the trial Court such as bail & discharge, absconding between hearings, claiming refugee status on frivolous ground during pending trial and by challenging various stages of trial procedure in higher courts. These tactics have often resulted in prolonged under trial detention or bail with restrictions, effectively allowing them to remain in India for years and expand their criminal activities, gangs and organized crimes in the country.

2. This matter came up for consideration at the DGsP/IGsP Conference, 2024, when it was *inter alia* decided that a comprehensive policy/legal framework to prevent misuse of judicial process by foreigners to overstay may be formulated by the Ministry of Home Affairs, in consultation with all stakeholders. It was further decided that the policy may examine withdrawal of cases where punishments were less than 7 years to facilitate deportation.

3. Accordingly, the matter regarding framing of a model Standard Operating Procedure (SOP) for withdrawal from prosecution in cases filed against foreigners to facilitate their deportation has been examined by this Ministry in consultation with various stakeholders. Based on the inputs received from various stakeholders, a model SOP has been prepared in this regard within the framework of Section 360 of Bharatiya Nagrik Suraksha Sanhita, 2023 (46 of 2023) and a copy of the same is enclosed.

4. The model SOP indicates the types of cases where withdrawal from prosecution may be considered against the foreigners, types of cases where such withdrawal from prosecution may not be considered and the detailed procedure that may be followed by State/UT



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prosecuting agencies and central prosecuting agencies for withdrawal from prosecution in such cases. Review of such cases by two Committees i.e., one District Level Screening Committee and another State Level Screening Committee in cases filed by State/UT prosecuting agencies is envisaged in the model SOP. In cases filed by central prosecuting agencies, it has been suggested that they may consider constituting an Agency Screening Committee to review such cases.

5. The objective of this model SOP is to prevent misuse of the judicial process by foreigners to prolong their stay in India. This will facilitate early deportation of such foreigners from the country and will also help in conservation of valuable judicial resources.

6. State/UT prosecuting agencies and central prosecuting agencies are advised to consider adopting the enclosed model SOP, by taking approval of the respective competent authorities, for withdrawal from prosecution in respect of cases filed against foreigners. Steps taken in this regard may please be intimated to this Ministry at the earliest.

It is observed that certain foreign nationals have been misusing the legal process of the country by deliberately implicating themselves in criminal proceedings, so as to thwart or delay deportation and thereby prolong their stay within the territory of India. The background to bring in the SOP reads as follows:

"1. Background

Misuse of legal procedures by certain foreign nationals who intentionally implicate themselves in criminal offences to delay deportation or gain prolonged stay in India has been observed by the Law Enforcement Agencies in various States/UTs. Once



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the case is registered, these foreigners use various legal and procedural tactics viz., repeated adjournments sought on medical grounds, change of counsel, filing frivolous applications before the trial Court such as bail & discharge, absconding between hearings, claiming refugee status on frivolous ground during pending trial and by challenging various stages of trial procedure in higher courts. These tactics have often resulted in prolonged under-trial detention or bail with restrictions, effectively allowing them to remain in India for years and expand their criminal activities, gangs and organized crimes in the country. In the DGsP/IGsP Conference, 2024, it was inter-alia decided as under:

“A comprehensive policy/legal framework to prevent misuse of judicial process by foreigners to overstay, to be formulated by MHA, in consultation with all stakeholders, including MEA, IB and legal officers. The policy would examine withdrawal of cases where punishments were less than 7 years, to facilitate deportation.”

The types of cases where withdrawal of prosecution is to be considered are as follows:

“3. Types of cases where withdrawal from prosecution may be considered against the foreigners.

(i) An offence registered under the Bharatiya Nyay Sanhita, 2023 (45 of 2023) which is compoundable under Section 359 of the Bharatiya Nagarik Suraksha Sanhita, 2023(Act 46 of 2023).

(ii) An offence registered under the Bharatiya Nyay Sanhita, 2023 (45 of 2023) which carries a punishment of imprisonment of up to 7 years.

(iii) An offence registered under any Central Act, including the Immigration and Foreigners Act, 2025 (13 of 2025) and its predecessor Acts, but other



than Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 (61 of 1985) or any State Act which is compoundable and/or where the punishment provided for the offence in the Act is imprisonment of up to 7 years.

(iv) An offence under the NDPS Act which carries a punishment of imprisonment up to ten years.

(v) Cases involving inexpediency of prosecution where trial is pending for more than five years.”

In the light of the afore-quoted Standard Operating Procedure, steps be taken to deport this petitioner after withdrawal of the prosecution and if the Standard Operating Procedure would not permit deportation, the prosecution shall continue against the petitioner.

10. For the aforesaid reasons, the following:

ORDER

(i) Criminal Petition is disposed.

(ii) The respondent – State shall follow the procedure in terms of the Standard Operating Procedure and after the crime is withdrawn, the petitioner shall be handed over to the FRRO of the jurisdiction, to take further steps against the petitioner for overstaying, without any valid documents, in terms of the SOP.

Ordered accordingly.”



6. In *Emeka James Iwoba's* case supra, this Court has held as under:

*“19. The State Government shall now undertake the entire exercise of constituting a State Level Committee and the District Level Screening Committee, as is observed in the SOP supra, within four months from the date of receipt of the copy of this order, **as the SOP and the constitution of the Committee is to ensure that valuable judicial resources are not squandered in prosecutions that ultimately serve only to facilitate overstay**s. The steps taken towards the constitution of the Committee shall be reported back to this Court, notwithstanding the disposal of the subject petition.*

SUMMARY OF FINDINGS:

- *Article 22(1) of the Constitution of India mandates that every person arrested must be informed of the grounds of arrest.*
- *The requirement of informing the grounds of arrest is a mandatory Constitutional safeguard and not a procedural formality.*
- *The Constitutional protection under Article 22 extends to all persons within the territory of India including the foreign nationals, as it is not citizen centric, but person centric.*
- *The law does not prescribe a rigid form of communicating grounds of arrest. Substantial compliance is sufficient, provided the arrested person is made aware of the basis of the arrest.*



- *The judicial review in such cases is limited to whether grounds of arrest were communicated and not the adequacy or correctness of the grounds of arrest.*

- *Finding violation of the mandate of the Apex Court qua the grounds of arrest, the petitioners are entitled to be set at liberty.*

- *The moment the petitioners are set at liberty, they must be handed over to the FRRO, to take further action, in terms of the SOP, for withdrawal of the prosecution and consequent deportation of these petitioners, as they are admittedly overstaying in this country for more than 10 years, without any valid documents, only on the score that one or the other prosecution is pending against them and the present case concerns recovery of 400 gms. of MDMA from the hands of the petitioners.*

20. For the aforesaid reasons, the following

ORDER

(i) Criminal Petition is **allowed in part.**

(ii) *The petitioners are entitled to be set at liberty on the grounds of arrest not being served upon them in a manner known to law.*

(iii) *The petitioners on them being set as liberty be handed over to the FRRO of the jurisdiction, to take further steps against the petitioners for overstaying without any valid documents , for more than a decade, in terms of the SOP.*

(iv) *The State Shall constitute the State Level Screening Committee/District Level Screening Committee, as is found in the SOP and report such constitution to this*



Court within 4 months from the date of receipt of the copy of this order.

*This Court places its deep appreciation to the valuable assistance rendered by **Sri.H.ShanthiBhushan**, learned Deputy Solicitor General of India.”*

7. In the instant case, it is an undisputed fact that pursuant to the impugned proceedings, the petitioner is under detention before the Detention Centre and as such, the present petition deserves to be disposed of by issuing certain directions.

8. In the result, I pass the following:

ORDER

(i) The petition is hereby ***disposed of.***

(ii) In the first instance, respondent Nos.1 and 2 – State shall withdraw the prosecution as against the petitioner within a period of four weeks from the date of receipt of a copy of this order and intimate the same to respondent No.3

(iii) Immediately upon receipt of such information regarding withdrawal of the prosecution by the respondent Nos.1 and 2 – State to the respondent No.3, the respondent No.3 – The Foreigners Regional Registration Officer (FRRO)



shall take necessary steps to deport the petitioner back to his home country i.e., Nigeria on production of necessary documents including flight details, etc., subject to the condition that there are no other cases pending against the petitioner.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

SV
List No.: 2 SI No.: 1