



CNR: KAHC010322752026

NC: 2026:KHC:48272
CRL.RP No. 731 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

CRIMINAL REVISION PETITION NO. 731 OF 2026

(397(Cr.PC) / 438(BNSS))

BETWEEN:

1. MRS SUPRIYA
D/O SMAPATH KUMAR,
AGED ABOUT 27 YEARS,
RESIDING AT NO.113, SIDDARATHA LAYOUT,
KAVAL BYRASANDRA, R.T NAGAR,
BENGALURU-560032.

...PETITIONER

(BY SMT.RAKSHITHA.P, ADVOCATE FOR
SRI. AJIT P B, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REP. BY THE EXCISE POLICE,
DEVANAHALLI RANGE, REP. BY HCGP,
HIGH COURT BUILDING, BENGALURU -560001.

...RESPONDENT

(BY SRI.DIVAKAR MADDUR, HCGP)

THIS CRL.RP IS FILED U/S 397 R/W 401 CR.PC (FILED U/S 438 R/W 442 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING TO SET ASIDE THE IMPUGNED ORDER DTD 16.02.2026 PASSED BY THE LRD. VIII ADDL. DISTRICT AND SESSIONS JUDGE AND SPL. JUDGE (NDPS) AT BENGALURU RURAL, BENGALURU IN SPL.C.NO.366/2024 AND THEREBY ALLOW THE APPLICATION FILED BY THE PETITIONER U/S 227 OF CrPC 1973, SEEKING THE DISCHARGE OF THE

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Location:
HIGH
COURT OF
KARNATAKA



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PETITIONER FROM THE OFFENCES P/U/S 17(b), 25, 8(c) OF THE NDPS ACT 1985.

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL ORDER

1. This Criminal Revision petition is filed under Section 397 read with Section 401 of Code of Criminal Procedure, 1973 (in short 'Cr.P.C') praying for setting aside the impugned order dated 16.02.2026 passed on application under Section 227 of Cr.P.C. in Spl.C.No.366/2024, on the file of VIII Additional District and Sessions Judge and Special Judge (NDPS), Bengaluru Rural, Bengaluru.
2. Learned counsel for the revision petitioner would submit that there is no allegation in the charge-sheet that accused No.2 (present revision petitioner) was aware about the use of the vehicle to commit the offence. However, the Trial Court has not considered this aspect and rejected the application filed by her under Section 227 of Cr.P.C. Hence, he prays for allowing the revision petition.

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3. Learned HCGP, Sri Divakar Maddur would submit that this is a matter of trial and cannot be decided at this stage. Hence, prayed for dismissal of the revision petition, and he supports the order of the Trial Court.
4. The case of revision petitioner in nutshell is that, revision petitioner is arrayed as accused No.2 in Spl.C.No.366/2024, alleging the offences punishable under Sections 17(b), 8(c) read with Section 25 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (in short 'NDPS Act') contending that, she is the owner of Royal Enfield Bullet 350 bearing No.KA-02-KL-7207; on 26.08.2022 when the Excise Inspector raided the vehicle, they found 114 grams of Opium, which was possessed by accused No.1 who was the husband of accused No.2. Hence, the charge-sheet is filed against accused No.2 also.
5. While considering the discharge application under Section 227 of Cr.P.C., the fundamental duty of the Court is to look into the averments made in the charge-sheet and if those averments constitute any offence, then the Trial

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Court shall frame charge and proceed with the case; in case the averments made in the charge-sheet does not disclose any offence, then he shall be discharged for such an offence.

6. With this background, the offences alleged against the petitioner are to be looked into.
7. Section 17(b), 8(c) read with Section 25 of the NDPS Act are alleged against the petitioner.
8. Section 17(b) of the NDPS Act describes punishment for contravention in relation to prepared opium. According to this provision, where the contravention involves quantity lesser than commercial quantity but greater than small quantity, then the accused shall be punished with rigorous imprisonment for a term which may extend to ten (10) years and with fine which may extend to Rs.1,00,000/-. As per Schedule, 114 grams of opium comes greater than smaller quantity and lesser than commercial quantity.

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9. Section 8(c) of the NDPS Act prohibits certain operations i.e. no person shall produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-State, export inter-State, import into India, export from India or tranship any narcotic drug or psychotropic substance except for medical or scientific purpose.
10. The allegation against accused No.1 is that he was found in possession of 114 grams of opium on 26.08.2022 along with the seized Royal Enfield Bullet 350 vehicle. Hence the case was registered against accused No.1 in accordance with the procedure prescribed under the NDPS Act.
11. Accused No.2 (present petitioner) is the registered owner of the vehicle in question. She was not traveling along with accused No.1 in said vehicle as on the date and time of the incident.
12. The Investigating Officer has recorded the statements of accused Nos. 1 and 2. According to the statement of accused No.1, he has specifically stated that he has used



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the vehicle in question and it is not known to his wife (accused No.2), and the vehicle stands in her name; but she does not know anything about this offence.

13. Accused No.2 in her statement has stated that, on 26.08.2022, her husband as usual had been to his job and he had not come back; hence, she became afraid and called him; but, he had not responded to her calls and she informed her relatives and friends. In the meanwhile, she called him through another phone; at that time, Devanahalli Police informed her that her husband is arrested with seizure of opium and the bike. Then she became tense and obtained Anticipatory bail, as the said bike stands in her name. She was not aware of the use of the vehicle for committing the offence.

14. The owner of the vehicle will be held responsible for use of the vehicle for unlawful purpose, if the owner was having knowledge about it. Section 25 of the NDPS Act states on this point. It reads as follows:

" 25. Punishment for allowing premises, etc., to be used for commission of an offence.— Whoever, being the owner or occupier or

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*having the control or use of any house, room, enclosure, space, place, animal or **conveyance, knowingly permits** it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable with the punishment provided for that offence."*

15. Thus, merely that accused No.2 is the owner of the bike cannot be a ground to allege offences under Section 17(b), 8(c) read with Section 25 of the NDPS Act against her; but there shall be an averment in the charge-sheet that the revision petitioner had knowledge of use of the vehicle by accused No.1 for the purpose of committing crime.
16. The Trial Court has rejected the application filed for discharge on the ground that an opportunity is to be given to the prosecution to prove the allegations made in the charge-sheet and the contention of accused No.2 can be considered only after full-fledged trial.
17. As discussed earlier to consider the application of discharge, the fundamental duty of the Court shall be to read the charge sheet and the annexures to it and then come to the conclusion that whether prima-facie, the



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ingredients of the offences alleged against accused No.2 are available in the charge-sheet; if there is such allegation in the charge0sheet, then accused No.2 is not entitled for discharge.

18. In the present case, on careful perusal of the charge-sheet and its annexures, there is no mention in the contents of the charge-sheet or in its annexures that accused No.2 was having knowledge that the vehicle is being used by accused No.1 for transporting Opium against the provisions of Section 17(b) and 8(c) of the NDPS Act. If there is such an allegation in the charge-sheet, then an opportunity ought to have been given to the Prosecution to prove the allegations and rejection of the discharge application was justifiable. However, in the instant case, as discussed above, there is not even a single averment in the charge-sheet and its annexures that accused No.2 had the knowledge of use of the vehicle to commit the offences under NDPS Act.

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19. In the absence of these things, the discharge application rejected by the Trial Court is perverse and not in accordance with law.
20. In this regard, learned counsel for the revision petitioner places reliance on the judgment of the co-ordinate bench of this Court in case of **Mr. R. Gopal Reddy v/s Mohammed Mukaram in WP No.13943/2024**. There is initial presumption available under Section 35 of the NDPS Act in favour of the Prosecution. However, that presumption is available to the Prosecution if there is an allegation of use of the vehicle with the knowledge of the owner. In the absence of such allegations, the presumption of culpable mental state cannot be drawn in the case of present nature. In the aforesaid judgment of Co-ordinate Bench, the provisions of Section 25 and 35 of NDPS Act were dealt with in detail and judgments of the Hon'ble Apex Courts were considered on this point and finally quashed the proceedings against the owner of the vehicle when there is no allegation of knowledge by the owner.



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21. Relying on the aforesaid judgment of the Co-ordinate Bench and for the above reasons, this Court holds that the discharge application rejected by the Trial Court is perverse and requires to be set aside. Hence, this Court passes the following Order:

ORDER

(i) The Criminal Revision Petition filed under Section 397 read with Section 401 of Cr.P.C is ***allowed.***

(ii) The Order dated 16.02.2026 on application under Section 227 of Cr.P.C in Spl.C.No.366/2024 on the file of VIII Additional District and Sessions Judge and Special Judge (NDPS), Bengaluru Rural, Bengaluru is hereby set aside.

(iii) The discharge application is ***allowed.***

(iv) Accused No.2 is discharged for the offences punishable under Sections 17(b), 8(c) read with Section 25 of the NDPS Act.

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**(GEETHA K.B.)
JUDGE**

SPV
List No.: 1 Sl No.: 18