



CNR: KAHC010441122019

NC: 2026:KHC:36697
CRL.P No. 7204 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO.7204 OF 2019

BETWEEN:

THE STATE BY
DR. MAHADESWARA H.S.,
GEOLOGIST, DEPT. OF
MINES AND GEOLOGY,
RAJATADRI, MANIPAL,
UDUPI DISTRICT.
REP BY THE STATE
PUBLIC PROSECUTOR,
HIGH COURT BUILDING
BENGALURU - 560 001.

...PETITIONER

(BY SMT. SOWMYA R., HCGP FOR PETITIONER)

Digitally signed **AND:**
by ANUSHA V

Location: High
Court of
Karnataka

KHADER SARFRAJ
S/O M.A.BAVA,
AGED ABOUT 24 YEARS,
R/O KORDEL
TENKAYEDAPADAVU,
CIBRIKERE,
MANGALURU TALUK,
D.K.DISTRICT - 575 001.

...RESPONDENT

(RESPONDENT - SERVED & UNREPRESENTED)



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THIS CRL.P IS FILED U/S 482 CR.PC PRAYING TO 1.SET ASIDE THE ORDER DATED 28.11.2018 PASSED BY THE PRL.CIVIL JUDGE AND JMFC, KARKALA IN P.C.NO.330/20182. 2. SET ASIDE THE ORDER DATED 12.04.2019 PASSED BY THE PRL.DISTRICT AND SESSION JUDGE, UDUPI DISTRICT, UDUPI IN CRL.RP.NO.16/2019.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 28.11.2018 passed by Principal Civil Judge and J.M.F.C., Karkala in PC no.330/2018 as well as order dated 12.04.2019 passed by Principal District and Sessions Judge, Udupi District, Udupi in Criminal Revision Petition no.16/2019, this petition is filed.

2. Smt.Sowmya R., learned HCGP for petitioner - State submitted that proceedings in PC no.330/2018 were initiated against respondent herein for offences punishable under Sections 4, 4 (1A) and 21 of Mines and Minerals (Development and Regulation) Act, 1957 (**MMDR Act**) and Rule 3 (1), 42 (1), 43 (2) and 44 of Karnataka Minor Mineral



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Concession Rules, 1994 (**Rules**) respectively. In said proceedings, a tipper vehicle bearing registration no.KA-19/D-2143 was seized along with illegally mined sand. An application was filed for release of vehicle under Sections 451 and 457 of Code of Criminal Procedure, 1973 (**CrPC**). By order dated 28.11.2018, same was allowed imposing various conditions.

3. Though, Rule 43 (8) of Rules mandated that an order for release of vehicle could be passed, same was mandated to be subject to applicant furnishing security in form of renewable bank guarantee of an amount equal to double value of vehicle, before competent Court. But conditions imposed in impugned order was for an indemnity bond for Rs.6,83,437/- being value of vehicle. It was submitted, since same was not in conformity with Rule 43 (8) of Rules, order was challenged by State in Criminal Revision Petition no.16/2019 before District Court. Under impugned order, same was dismissed. Assailing same, present petition was filed.

4. It was submitted, failure to impose conditions as prescribed under Special Enactment and considering application



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as if filed under general provisions of CrPC without imposing conditions prescribed under Special Enactment was not justified. Dismissal of revision petition by referring to various decisions, in which there was no consideration of mandate under MMDR Act and Rules would not be justified. Consequently, dismissal of revision petition would be unsustainable in law and sought for allowing petition.

5. Respondent is served and unrepresented.

6. Perusal of application filed as well as order passed by trial Court would indisputably indicate that seizure of respondent's vehicle was in proceedings initiated for offences punishable under MMDR Act and Rules. Said proceedings are under special enactment and though said provisions provides for release of vehicle, manner of consideration has been dealt with by Hon'ble Supreme Court in **Section Forester and Anr. v. Mansur Ali Khan**, reported in **(2004) 1 SCC 293** referring to its earlier decision in **State of Karnataka v. K. Krishnan**, reported in **(2000) 7 SCC 80**, held in cases of offences punishable under similar special enactment namely Karnataka



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Forest Act, by clarifying that purpose of special enactment was to prevent re-use of vehicles for commission of similar offences and therefore an order of release could not be passed in routine manner, but only in exceptional circumstances and that too by imposing stringent conditions as mandated under special enactment. Same is followed by this Court in **Sadashiv v. State of Karnataka** (Crl.P. no.100011/2019, disposed of on 27.06.2019), where non-imposition of appropriate condition is held erroneous.

7. Perusal of impugned order passed by trial Court would reveal that despite Public Prosecutor drawing attention to requirement under Rule 43 (8) of Rules, application is allowed without any specific reasons for waving condition requiring respondent to furnish indemnity bond for twice value of vehicle and two solvent sureties for likesum.

8. Perusal of value of vehicle mentioned in mahazar drawn at time of seizure is Rs.6,83,437/-. Same is also value mentioned for purpose of insurance in insurance policy for



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relevant period. This would indicate that condition imposed would not be in conformity with Rule 43 (8) of Rules.

9. When special enactment prescribes a requirement of furnishing of renewable bank guarantee of an amount equal to double value of vehicle, release of vehicle by furnishing an indemnity bond that too equal to value of vehicle would not be justified.

10. In light of ratio laid down in **Mansur Ali Khan, K. Krishnan** and **Sadashiv's** cases (*supra*) and mandate of Rule 43 (8) of Rules, respondent would require to furnish bank guarantee for double value of vehicle. Consequently, order dated 28.11.2018 passed by trial Court would require modification and dismissal of revision petition by Revisional Court would not be proper. However as vehicle is already released, it is found appropriate to modify order addition of condition.

11. Accordingly, petition is ***allowed***, impugned order dated 28.11.2018 passed by Principal Civil Judge and J.M.F.C., Karkala in PC no.330/2018 as well as order dated 12.04.2019



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passed by Principal District and Sessions Judge, Udupi District, Udupi in Criminal Revision Petition no.16/2019, stands modified with addition of following condition:

Respondent is required to furnish a renewable bank guarantee equal to double value of vehicle as mentioned in seizure panchanama or value assessed or mentioned in surety bond filed by respondent, whichever is higher. Said condition shall be in addition to conditions imposed and required to be complied within two months from today or within such period as extended by learned District Judge.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

GRD
List No.: 1 Sl No.: 22