Reserved on : 01.09.2026
Pronounced on : 04.11.2026

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO.12707 OF 2026

BETWEEN:

1. MR.PRABHAKARA A.K.,
S/O A.KUMARAN,
AGED ABOUT 56 YEARS,
RESIDING AT NO.23, 2ND MAIN ROAD,
SAI LAKE HABITAT,
SRI KRISHNA NAYAK LAYOUT,
HIRANDAHALLI, BENGALURU,
KARNATAKA - 560 049.

AS INDICATED IN FIR
MR. PRABHAKAR (A3)/ENGINEER,
BENGALURU CITY
KARNATAKA.

2. MR. ARUN PARAMESHWAR KABBUR,
S/O PARAMESHWAR,
AGED ABOUT 27 YEARS
KARIKATTI, PARASGAD,
BELGAUM, KARNATAKA - 591 126.

Digitally signed by CHETAN B C
Location: High Court of Karnataka

AS INDICATED IN REMAND APPLICATION -
MR.ARUN PARAMESHWAR KABBUR,
S/O PARAMESHWAR,
AGED ABOUT 27 YEARS
RESIDING AT: C/O. SURESH,
LABOUR COLONY, BHOGANAHALLI VILLAGE,
BENGALURU CITY.

…PETITIONERS

(BY SRI SANDESH J.CHOUTA, SR.ADVOCATE A/W
SRI AMAR ALEXANDER CORREA, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY BELLANDURU POLICE STATION,
BENGALURU - 560 035.
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU - 560 001.

2. SRI SATHISH NAIK
S/O SHANKAR NAIK,
AGED ABOUT 33 YEARS,
RESIDING AT NO.102/01
1ST MAIN ROAD
OPP. PES COLLEGE
VEERABHADRA NAGAR
BANASHANKARI III STAGE
BENGALURU - 560 085.

…RESPONDENTS

(BY SRI B.N.JAGADEESHA, SPP-I FOR R-1)

THIS CRL.P FILED U/S 528 OF BNNS PRAYING TO QUASH THE FIR AND COMPLAINT DATED 11.07.2026 IN CR.NO.310/2026 BY RESPONDENT NO.1 BELLANDURU POLICE, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 3 AND 5 OF THE EXPLOSIVE SUBSTANCES ACT, 1908 SECTION 9(B) OF EXPLOSIVES ACT, 1884 AND SECTIONS 288 AND 351(2) OF BNS, PENDING ON THE FILE OF THE XLI A.C.J.M BENGALURU CITY AS AGAINST THE PETITIONERS WHO IS ACCUSED NO.3 AND 5 VIDE ANNEXURE A AND B.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 01.09.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioners, who are arrayed as accused Nos.3 and 5, are before this Court calling in question the registration of Crime No.310 of 2026, for offences punishable under Sections 3 and 5 of the Explosive Substances Act, 1908, Section 9(B) of the Explosives Act, 1884 and Sections 288 and 351(2) of the Bharatiya Nyaya Sanhita, 2023.

2. Heard Sri **Sandesh J. Chouta**, learned senior counsel appearing for the petitioners and Sri **B.N. Jagadeesha**, learned State Public Prosecutor-1 appearing for respondent No.1.

3. Facts, in brief, germane are as follows: -

3.1. The 2nd respondent/complainant is engaged in the business of earthworks and controlled blasting in and around Bengaluru, principally in connection with development projects. He claims to possess a Shot Firer's Certificate, authorising him to undertake mild controlled blasting operations, subject to obtaining the requisite permission or no-objection certificate from the competent local authority.

3.2. In December 2025, the complainant was approached by Srinivas Earth Movers, of which the 2nd petitioner/accused No.5 is the proprietor, for undertaking earthwork and blasting operations in various survey numbers of Bhoganahalli Village, Varthur Hobli, at a project known as Iris Maple Tree. The complainant agreed to extend his services, licence and manpower for the execution of the work. The requisite procedure for obtaining a no-objection certificate was

initiated before the Office of the Commissioner of Police, Bengaluru City, in January 2026.

3.3. Pursuant thereto, the complainant claims to have undertaken mild controlled blasting operations using electric detonators between January and March 2026, ostensibly in accordance with the conditions of the licence. The controversy appears to have erupted when substantial rock formations were encountered beneath the surface of the land. The presence of these formidable subterranean obstructions is alleged to have prompted an insistence upon the complainant to accelerate the work by resorting to blasting operations beyond the permissible contours of the licence.

3.4. It is alleged that one Arun Kumar and Adarsh Developers exerted pressure upon the complainant to employ explosive substances in a manner contrary to the conditions governing their use. The complainant claims to have resisted such demands and, upon his refusal, to have been subjected to threats. What began as a commercial engagement for the removal of rock formations thus allegedly descended into a dispute concerning the employment of

prohibited explosive substances and threats arising from the refusal to undertake the demanded operations.

3.5. This culminated in the registration of the complaint on 11-07-2026, which became Crime No.310 of 2026. It is the registration of the said crime that has propelled the petitioners to invoke the extraordinary jurisdiction of this Court.

SUBMISSIONS:

PETITIONERS:

4.1. Sri Sandesh J. Chouta, learned senior counsel appearing for the petitioners, would vehemently contend that the allegations, even if accepted in their entirety and taken at their highest, fall woefully short of constituting the ingredients of the offences alleged. It is his submission that the gravamen of the complaint is merely an alleged insistence upon the complainant to undertake blasting operations. Such insistence, even assuming it to be true, never fructified into the commission of any prohibited act. No illegal blasting is alleged to have been carried out at the instance of the

petitioners, nor is there any allegation of an explosion resulting in danger to human life or property.

4.2. The learned senior counsel would contend that criminal law cannot be permitted to travel into the realm of conjecture and punish an act which has neither been committed nor otherwise attracted any statutory prohibition. He would, therefore, submit that permitting investigation to continue would amount to an abuse of the process of law.

STATE:

5.1. Per contra, Sri B.N. Jagadeesha, learned State Public Prosecutor-I, would stoutly refute the submissions advanced on behalf of the petitioners. The learned State Public Prosecutor would submit that the argument founded upon the absence of an actual explosion proceeds on a fundamental misconception of the statutory scheme. According to him, the prosecution is not confined to the allegation of an illegal blast having been carried out. The inspection of the premises is stated to have revealed the presence of electric detonators, the possession of which stands prohibited by

a notification issued by the competent authority. It is contended that when the very possession of a particular explosive substance is interdicted by law, the absence of its eventual use cannot furnish an impregnable defence against investigation.

5.2. The learned State Public Prosecutor would further submit that to terminate the proceedings at such an embryonic stage, without permitting the investigating agency to ascertain the circumstances surrounding the possession and intended use of the prohibited material, would be to stifle the legitimate process of investigation, before the truth has had an opportunity to emerge. He would, therefore, seek dismissal of the petition.

6. In rejoinder, learned senior counsel for the petitioners would place considerable emphasis upon the proceedings against Adarsh Developers, the owner of the property, having been quashed on the premise that the said entity was unaware of the activities undertaken at the site. It is contended that the petitioners stand on no different footing and are, therefore, entitled to the same benefit. According to the learned senior counsel, the

prosecution cannot be permitted to proceed selectively when the factual substratum of the allegations is substantially common.

7. I have given my anxious consideration to the submissions advanced by the respective learned counsel and have perused the material placed on record.

CONSIDERATION:

8. The controversy, though presented through competing submissions, lies within a narrow legal compass. The question is whether, in the circumstances obtaining in the case at hand, the absence of an actual illegal explosion would, by itself, justify the obliteration of criminal proceedings, when the allegation also concerns the possession and intended employment of a substance whose possession stands prohibited by law?

9. The contractual relationship between the parties is not in serious dispute. The complainant was engaged for undertaking earthwork and controlled blasting operations to remove rock formations at the project site. The dispute arose upon the alleged

insistence that the work be expedited by resorting to blasting operations beyond the permissible limits of the licence. This led to the registration of the complaint on 11-07-2026, which reads as follows:

"To

The Police Inspector,
Bellandur Police Station,
Bengaluru City.

From,

Satish Naik,
S/o Shankar Naik, Age: 33 years,
Door No. 102/1, 1st Main Road,
Opposite PES College, Veerabhadra Nagar,
Banashankari 3rd Stage, Bengaluru-560085.
Ph: 9845885588.

Respected Sir,

Sub: Complaint against Mr. Arun Kumar of Adarsha Developers Owners, Directors, Site In-charge Mr. Jagan, Site Engineer Prabhakar, Contractors, for illegal use and methods of explosives/blasting endangering human life at Sy. No. 1/1, 2/2, 2/3, 2/4, 2/5, 3/1A, 3/1B, 3/2, 3/3, 3/4, 3/5, 3/6, 3/7, 121/1 121/4, 122/1, 122/2, 122/3 122/4, 138/139/3, 141/1, 141/2 141/3, 141/4, 141/5, 6, 7, 142/3 Iris Maple Tree, Bhoganahalli Village, Varthur Hobli, Bengaluru.

I am residing at the above-mentioned address. I am doing Earth works/blasting in and around development projects. I hold shot firer's certificate (Certificate of Competency to carry out blasting of explosive in India). The certificate number is E/SZ/AP/30/7424 (E125258) issued by the Dy. Chief Controller of Explosives, Vishakapatnam. This licence holds good to

undertake mild controlled blasting all over India subject to NOC issued by the local authority.

In December 2025, I was approached by Srinivas Earth Movers Proprietor Mr. Arun Kumar to lend my licence and manpower to do earth work at the above-mentioned site owned by land as mentioned above. Accordingly, I agreed and provided my licence and obtained NOC through proper formalities and procedures from Police Commissioner's Office, Bangaluru City in January 2026. As per the licence conditions, I am supposed to undertake mild controlled blasting using electrical detonators. I did the work as per license conditions at the above-mentioned site from January 2026 to March 2026. But later on, huge volume of rocks were found underneath the ground. In order to complete the work fast, Mr. Arun Kumar and Adarsha Developers Company people pressurized me to use explosives in contravention to the license, procedures and methods used to do blasting. I refused to doing an uncontrolled blasting at the site. Subsequently, they did not make any payment for the work done by me and threatened me with dire consequences and threatened to finish me.

Since March, they have been carrying out illegal methods, illegal explosives, violated the license conditions and endangered human life and getting blasting done from people known to them who are not authorized to undertake blasting. Since March, I have not been allowed to do the work at the site. Today, they have undertaken blasting at the site using illegal methods endangering human life at the above-mentioned site. I request you to kindly take necessary legal action and register a case against Mr. Arun Kumar and Adarsha Developers Owners and Management, Site In-charge Mr. Jagan, Site Engineer Prabhakar, Contractors, etc.

Thanking you,

Your sincerely
(Satish Nayak)
Sd/-

Date: 11/07/2026
Place: Bangalore.”

10. The learned State Public Prosecutor-I would draw the attention of this Court to the notification issued by the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, bearing S.O.2920(E) dated 01-07-2025.

> "***DPIIT Notification S.O. 2920(E) dated 1 July, 2025***
>
> **S.O. 2920(E)**. - In continuation of Ministry of Commerce & Industry, Department for Promotion of Industry and Internal Trade's S.O. 4255 (E) dated 29.09.2023 and S.O. 1563 (E) dated 02.04.2025, it is reiterated that the manufacture, possession and import of the electric detonator (explosive of Class 6 Division 3 or UN Class 1 Division 1) is prohibited throughout the country with effect from the 1st day of July, 2025.
>
> Provided that such prohibition, manufacture, possession and, import of Permitted Delay Detonators for usage in coal mines and suitable Detonators for Oil well logging operations and seismic survey by oil and gas operator companies for oil exploration and production, shall not be applicable till 30th Day of September, 2025.
>
> [F. No. P-13015/45/2021-EXPLOSIVE-Part(1)]"

The notification, issued in continuation of the earlier notifications dated 29-09-2023 and 02-04-2025, reiterates the prohibition on the manufacture, possession and import of electric detonators throughout the country with effect from 01-07-2025, subject to the limited transitional exceptions indicated therein. The language of the notification is of considerable significance. The prohibition is not

confined to the use of electric detonators. It expressly extends to their **manufacture, possession and import**.

11. The distinction is neither ornamental nor inconsequential. The law, in its wisdom, has chosen to interdict possession itself, without waiting for the prohibited substance to be employed in an explosion. Where the legislative or delegated statutory command proscribes possession, the inquiry cannot be confined to whether the substance has actually been used. The prohibition attaches to the possession of the substance, subject, of course, to the establishment of the requisite ingredients of the offence.

12. Certain Rules have been promulgated under the Explosives Act, 1884. Rule 10 of the Explosives Rules, 2008 deals with general restrictions. Rule 10(3) reads as follows:

> "10. ....
>
> (3) **Restriction on transport** —(a) Any explosive of Class 5 (Fulminate) or detonator or any other explosive of Class 6 (Ammunition) containing its own means of ignition or initiation, or an explosive of Class 7 (Fireworks) shall not be transported in the same carriage, or save as provided in Part 3 of Schedule VI in the same vessel and shall not beconveyed or handled with any explosives not of the class and division to which it belongs.

(a) No person shall transport any explosive with explosives belonging to Compatibility Group K referred to against serial number 10 in Table 1 under Part 3 of Schedule I, in a vehicle.

(b) No person shall transport explosives of Class 3 or Class 2 along with detonators.

(c) Nothing in clauses (a) and (b) shall apply to the transport of explosives of Class 2 and/or Class 3, safety fuse, detonating fuse and detonators in a compressor mounted motor truck or tractor covered under a licence as per these rules."

It mandates that no person shall transport explosives of Class 3 or Class 2 along with detonators. If the notification quoted *supra* is read in tandem with the Rules, what would unmistakably emerge is, that electric detonator that was found at the site which was kept for use for blast of rocks was undoubtedly a prohibited substance. Interpretation of storing those substances would become an offence would not detain this Court for long or delve deep into the matter.

13. The High Court of Madras in **FRANCIES v. STATE**[1], has held as follows:

"…. …. ….

[1] **2026 SCC OnLine Mad 5123**

16. As far as Section 5 of the above said Act is concerned, the possession of explosive substance which give rise to a reasonable suspicion that a person is in possession of the same not for lawful object, then he is liable to be punished. In the present case, admittedly, the object of possession was to remove the rocks from the School premises. The prior permission has already been granted by the District Collector. However, no permission has been granted to use the explosive substances. Therefore, the object for which the possession of explosives was found, cannot be considered to be an unlawful object.

17. The Supreme Court in a judgment reported in (1981) 2 SCC 443: 1981 SCC (Cri) 477 (Mohammad Usman Mohammad Hussain Maniyar v. State of Maharashtra) paragraph Nos. 13 & 14 are as follows:

> **"13. In order to bring home the offence under Section 5 of the Explosive Substances Act, the prosecution has to prove: (i) that the substance in question is explosive substance; (ii) that the accused makes or knowingly has in his possession or under his control any explosive substances; and (iii) that he does so under such circumstances as to give rise to a reasonable suspicion that he is not doing so for a lawful object.**
>
> **14. The burden of proof of these ingredients is on the prosecution. The moment the prosecution has discharged that burden, it shifts to the accused to show that he was making or possessing the explosive substance for a lawful object, if he takes that plea."**

18. As per the above said judgment, all the three ingredients have to be satisfied for attracting Section 5 of the Act. Admittedly, the third ingredient, that the circumstances as to give rise reasonable suspicion that he will not do so for lawful object is not available. **This judgment has been followed by our High Court in Crl.R.C. No. 398 of 2017 (M. Duraisamy v. State Rep.by the Inspector of Police, Mahudanchavadi Police Station) dated 2-3-2023**

wherein the accused was in possession of the explosive substance for the purpose of blasting the rock inside the Well. Paragraph Nos. 12 & 13 of the said judgment are as follows:

> **"12. The burden of proof of the above three ingredients is solely on the prosecution. The moment the prosecution has discharged that burden, it shifts to the accused person to show that he was making or possessing the explosive substance for a lawful object. Useful reference can be made to the judgment of the Supreme Court in this regard in Mohamad Usman Mohammad Hussain Maniyar v. The State of Maharashtra, (1981) 2 SCC 443: 1981 SCC (Cri) 477: AIR 1981 SC 1062.**
>
> **13. In the instant case, the first two ingredients has been proved as already stated supra. The third ingredient has not been proved by the prosecution against the petitioner. The prosecution nowhere has proved that the petitioner, who was in possession of the explosive substance had created the reasonable suspicion that he is possessing the same for an unlawful object. Even as per the confession statement that was recorded from the petitioner, it is clear that the petitioner was having the explosive substance to blast the rock inside his well.""**

14. The High Court of Jharkhand in **TARKESHWAR JAISWAL v. STATE OF JHARKHAND**[2], has held as follows:

[2] **2023 SCC OnLine Jhar 565**

"…. …. ….

8. In counter to the submission made on behalf of the appellant that the material which has been recovered as per the seizure memo cannot be construed to be explosive substance, in this regard, submission has been made by referring to the incriminating material not construed to be wholly explosive, rather, it is explosive substance and for the purpose of strengthening his argument, he has placed the judgment rendered by the Hon'ble Apex Court in the case of *Mohammad Usman Mohammad Hussain Maniyar* v. *State of Maharashtra*, reported in (1981) 2 SCC 443 : AIR 1981 SC 1062, wherein, the definition of 'explosive substance' has been dealt with, wherein, explosive itself cannot be construed to be substance unless, the said explosive itself can cause the explosion, then it will come under the fold of explosive substance, therefore, the ingredients of Section 3/4 of the Explosive Substance Act, will be attracted.

9. Here, in the instant case, the recovery which has been shown of articles as per the seizure memo, is explosive substance, since, the same is Potassium Chloride and Ammonium Nitrate and both these substances are itself can cause explosion without any aid of detonator and hence, it is under explosive substance and as such, there is ingredient of Section 3/4 of the Explosive Substance Act.

… … …

16. This Court, thus, is of the view that material which has been recovered, is explosive substance as per the report of the expert opinion and there is no reason to take different view from the opinion of experts."

(Emphasis supplied at each instance)

The High Court of Jharkhand holds that an explosive can be treated as an explosive substance, if it is capable of causing explosion by itself without the aid of a detonator.

15. The notification and the Rules, read in their respective spheres, reveal the unmistakable legislative concern underlying the regulation of explosive substances. The law does not merely address the aftermath of an explosion; it seeks to regulate the circumstances in which explosive substances are manufactured, possessed, transported and handled. The reason is not far to seek. **Explosive substances, by their very nature, carry within them the potential for consequences that may be swift, irreversible and catastrophic. A regulatory regime governing such substances cannot be rendered dependent, solely upon the occurrence of an explosion. To do so would be to convert a preventive statutory safeguard into a mere response to disaster.**

16. In the case at hand, the allegation concerning the presence of electric detonators at the project site assumes significance in the light of the notification. Whether the substances found were indeed those covered by the prohibition, who possessed or controlled them, whether the petitioners had the requisite knowledge or involvement, and whether the circumstances attract

the statutory offences are all matters that necessarily demand investigation. At this stage, the Court is not called upon to pronounce upon the guilt of the petitioners. It is called upon only to determine whether the allegations disclose circumstances warranting investigation. The two inquiries are fundamentally distinct.

17. The absence of an accomplished explosion may have a bearing upon the eventual proof of particular offences. It cannot, however, be treated as an answer to every allegation arising under a statutory framework that independently regulates or prohibits possession.

18. In that light, finding no merit to interfere at this stage of the proceedings, the petition stands ***rejected.***

Consequently, I.A.No.1 of 2026 also stands disposed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

bkp