HC-KAR

NC: 2026:KHC:61547
CRL.P No. 15247 of 2026

CNR: KAHC010679872026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 15247 OF 2026

(439(Cr.PC) / 483(BNSS))

BETWEEN:

MAHAMMED SHIFAN
S/O. UMMAR FAROOQ
AGED ABOUT 29 YEARS
R/AT BAITH AL MUMIN
MUNISHA MANSION
MUKKACHERRY, ULLALA
MANGALURU
D.K DISTRICT - 575 020.

...PETITIONER

(BY SRI. LETHIF B., ADVOCATE)

Digitally signed by SUMA B N
Location: HIGH COURT OF KARNATAKA

AND:

THE STATE OF KARNATAKA
BY ULLAL POLICE STATION,
D.K DISTRICT REP. BY SPP,
HIGH COURT BUILDING,
BANGALORE-560 001.

...RESPONDENT

(BY SRI. RAHUL RAI K., HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 CR.P.C (U/S 483 BNSS) PRAYING TO RELEASE HIM ON BAIL IN SPL.C.NO.202/2026 ARISING OUT OF CR.NO.34/2026 REGISTERED BY ULLAL P.S., MANGALURU DISTRICT, FOR THE OFFENCES P/U/S 8(c) AND 22(c) OF NDPS ACT, U/S 3(5) OF BNS, PENDING BEFORE THE PRL. DISTRICT AND SESSIONS COURT, D.K., MANGALURU AND ETC.

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

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

1. Accused No.3 in Special Case No.202/2026 pending before the Court of Principal District and Sessions Judge, D.K., Mangaluru, arising out of Crime No.34/2026 registered by Ullal Police Station for the offences punishable under Sections 8(c), 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and Section 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS 2023), is before this Court in this petition filed under Section 483 of BNSS, 2023 seeking regular bail.

2. Heard learned counsel for the parties.

3. FIR in Crime No.34/2026 was registered by Ullal Police Station, Mangaluru, for the aforesaid offences against Musthafa Sidiyabba and others, based on first information dated 12.02.2026 received from Sharanappa Bhandary, Police Officer attached to CCB Police, Mangaluru. In the said case, petitioner was arrested on 12.02.2026 and subsequently remanded to judicial custody. After completion of investigation, charge sheet is filed against three persons and petitioner is arrayed as accused No.3 in the charge sheet. His bail application filed before Trial Court in Special Case No.202/2026 was rejected on 21.09.2026. Therefore the petitioner is before this Court.

4. In the first information submitted by the police officer attached to CCB Police, Mangaluru, it is stated that based on credible information received by him when he was in the police station, he had intercepted the car bearing registration No.KA-19/MQ-3420 and the inmates of the car who are arrayed as accused Nos.1 to 3 in the FIR were apprehended and at their instance, contraband

article allegedly MDMA, totally weighing 118.13 grams was recovered and seized under panchanama. According to the prosecution, at the instance of accused No.1- 53.09 grams, at the instance of accused No.2 - 12.50 grams and at the instance of accused No.3-52.54 grams of contraband article allegedly MDMA totally weighing 118.13 grams was recovered from the car in which they were traveling.

5. Material on record would go show that credible information was received by the first informant to the effect that persons traveling in the aforesaid car were in possession of contraband article and therefore in compliance of Section 42 of NDPS Act he ought to have reduced the said credible information in the prescribed register and forward the same to his higher officers before proceeding further to investigate the case. It is not in dispute that said requirement of law as provided under Section 42 of NDPS Act is not complied by the officer who had proceeded to seize the contraband article and arrest the accused persons. Therefore it is

apparent that there is complete non-compliance of Section 42 of NDPS Act in the present case.

6. Learned counsel for the petitioner has also brought to the notice of this Court that seizure of the contraband article and arrest of the accused was done by the Police Officer attached to CCB Police and based on the first information submitted subsequently by the said officer, FIR was registered by Ullal Police Station for the aforesaid offences against the petitioner and others. However, in compliance of Section 57 of NDPS Act, report has been prepared and forwarded to the higher Officer by the Sub-Inspector of Police, Ullal, after registration of the FIR and not by the officer who has made the arrest and seizure.

7. Section 57 of NDPS Act mandates that any person who makes the arrest or seizure under the NDPS Act shall within 48 hours next after such arrest or seizure, shall make a full report of all the particulars of such arrest or seizure to his immediate official superior. Therefore the requirement of Section 57 of NDPS Act also has not

been complied in the present case by the prosecution. It is not in dispute that petitioner has no criminal antecedents. Since there is no compliance of Sections 42 and 57 of NDPS Act in the present case, rigour under Section 37(1)(b) of NDPS Act cannot be strictly made applicable to the case of the petitioner. Investigation is already completed and charge sheet is filed. Trial in the case is yet to commence. Under the circumstances, the following:

ORDER

(i) The Criminal Petition is ***allowed***. The petitioner is directed to be enlarged on bail in S.C.No.202/2026 pending before the Court of Principal District and Sessions Judge, D.K., Mangaluru, arising out of Crime No.34/2026 registered by Ullal Police Station, Mangaluru, for the offences punishable under Sections 8(c) and 22(c) of NDPS Act and Section 3(5) of BNS 2023, subject to the following conditions:

a) Petitioner shall execute a personal bond for a sum of Rs.1,00,000/- with two sureties for

the likesum, to the satisfaction of the jurisdictional Court;

b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;

c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioner shall not involve in similar offences in future;

e) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

SD/-
(S VISHWAJITH SHETTY)
JUDGE

SBN
List No.: 1 Sl No.: 58