HC-KAR
CNR: KAHC010681942026

NC: 2026:KHC:61697
CRL.P No. 15177 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO. 15177 OF 2026

BETWEEN:

FATHIMA ZOORA,
D/O. ABUBAKKAR,
AGED ABOUT 25 YEARS,
R/AT NO.1-222, SURIBAILU HOUSE,
BOLANTHILA VILLAGE, MANGALURU,
DAKSHINA KANNADA 575029.

...PETITIONER

(BY SRI HARSHA G C, ADVOCATE FOR
SRI NISHIT KUMAR SHETTY,ADVOCATE)

AND:

STATE OF KARNATAKA,
BY MULKY POLICE STATION,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE 560 001.

...RESPONDENT

(BY SRI M V ANOOP KUMAR, ADDL.SPP)

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO ALLOW THE PETITION AND SET ASIDE THE ORDER DATED 27.07.2026, MADE IN SPL.C.NO.128/2026 BY THE PRL. DISTRICT AND SESSIONS JUDGE, D.K.MANGALURU IN RESPECT OF APPLICATION FILED BY THE PETITIONER U/S 497 AND 503 OF BNSS AND ALLOW THE APPLICATION FILED BY THE PETITIONER U/S 497 AND 503 OF BNSS AND ORDER TO RELEASE THE MARUTI COMPANY FRONX DELTA + CAR

Digitally Signed by ANANT
RAMNATH HEGDE

BEARING REGISTRATION NO.KA-70-M7115, TO THE CUSTODY OF THE PETITIONER.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel for the petitioner and the learned Additional State Public Prosecutor appearing for the respondent -State.

2. This petition is filed challenging the order dated 27.07.2026 in Special Case No.128/2026 pending before the Sessions Judge, Dakshina Kannada, Mangaluru.

3. In terms of the impugned order, petitioner's application under Sections 497 and 503 of Bharathiya Nagarika Suraksha Sanhita, 2023 is rejected.

4. In terms of the impugned order, the Trial Court has come to the conclusion that the petitioner is not entitled to the relief in terms of the law laid down by the Apex Court in the case of ***Bishwajit Dey vs. State of Assam***[1].

[1] ***(2025) 3 SCC 241***

Digitally Signed by ANANT RAMNATH HEGDE

5. Learned counsel for the petitioner would submit that no complaint is filed against the petitioner and no drugs are recovered from the possession/custody of the petitioner. The petitioner's husband is accused No.1 and the allegation is that, the drugs are found in the car which was being used by the petitioner's husband at the time of alleged seizure and recovery.

6. Learned counsel for the petitioner referring to the circumstances would submit that there is no allegation that the petitioner was in conscious possession of the drugs and she was not in the control of the vehicle at the time of alleged incident.

7. It is the further submission that in paragraph No.30 of the judgment of the Apex Court in ***Bishwajit Dey*** *supra* referred by the Trial Court would come to the aid of the petitioner. Thus, the learned counsel would urge that the petition be allowed and the vehicle be released subject to conditions.

Digitally Signed by ANANT
RAMNATH HEGDE

8. Learned Additional State Public Prosecutor would submit that the Trial Court has referred to the facts of the case and also referred to the judgment of the Apex Court in ***Bishwajit Dey*** *supra* and has rightly rejected the application.

9. The Court has considered the contentions raised at the Bar and perused the records.

10. It is relevant to notice that the petitioner is not the accused. Thus, there is no allegation against the petitioner at all. The allegation is that the petitioner's husband was using the vehicle when the drugs were allegedly seized from the possession of the petitioner's husband.

11. The Apex Court in the case of ***Bishwajit Dey*** *supra* in paragraphs No.29 and 30 has held as under:

> ***"BROADLY SPEAKING THERE ARE FOUR SCENARIOS***
>
> *29. Though seizure of drugs/substances from conveyances can take place in a number of situations, yet broadly speaking there are four scenarios in which the drug or substance is seized from a conveyance. Firstly, where the owner of the vehicle is the person from whom the possession of contraband drugs/substance is recovered. Secondly, where the contraband is recovered*

Digitally Signed by ANANT
RAMNATH HEGDE

from the possession of the agent of the owner i.e. like driver or cleaner hired by the owner. Thirdly, where the vehicle has been stolen by the accused and contraband is recovered from such stolen vehicle. Fourthly, where the contraband is seized / recovered from a third-party occupant (with or without consideration) of the vehicle without any allegation by the police that the contraband was stored and transported in the vehicle with the owner's knowledge and connivance. In the first two scenarios, the owner of the vehicle and/or his agent would necessarily be arrayed as an accused. In the third and fourth scenario, the owner of the vehicle and/or his agent would not be arrayed as an accused.

30. This Court is of the view that criminal law has not to be applied in a vacuum but to the facts of each case. Consequently, it is only in the first two scenarios that the vehicle may not be released on superdari till reverse burden of proof is discharged by the accused-owner. However, in the third and fourth scenarios, where no allegation has been made in the charge-sheet against the owner and/or his agent, the vehicle should normally be released in the interim on superdari subject to the owner furnishing a bond that he would produce the vehicle as and when directed by the Court and/or he would pay the value of the vehicle as determined by the Court on the date of the release, if the Court is finally of the opinion that the vehicle needs to be confiscated."

(Emphasis supplied)

Digitally Signed by ANANT
RAMNATH HEGDE

12. The Apex Court has considered the four broad scenarios where the contrabands are found in the vehicles and referring to the last two scenarios, the Apex Court has held that in such cases, the vehicle may be released subject to certain conditions.

13. In the instant case, since there is no allegation against the petitioner that the petitioner was in conscious possession of the contraband, or that the petitioner had the knowledge about her husband using the vehicle while using the contraband or to carry the contraband. The Court is the view that the petitioner is entitled to the relief claimed.

14. Hence the following:

ORDER

(i) The Criminal Petition is ***allowed***.

(ii) The impugned order dated 27.07.2026 in Special Case No.128/2026 pending on the file of Sessions Judge, Dakshina Kannada, Mangaluru is quashed.

Digitally Signed by ANANT RAMNATH HEGDE

(iii) The Trial Court shall release the vehicle to the petitioner after the petitioner executing a bond for value of the vehicle.

(iv) The petitioner shall also undertake to produce the vehicle as and when the vehicle is required by the Court during the course of trial.

(v) The petitioner shall not alienate or hypothecate the vehicle or change the colour and other features of the vehicle.

Digitally Signed by ANANT RAMNATH HEGDE

(ANANT RAMANATH HEGDE)
JUDGE

GVP
List No.: 1 Sl No.: 56