



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 14<sup>TH</sup> DAY OF MAY, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE M.G.S. KAMAL**

**CRIMINAL PETITION NO. 6438 OF 2026 (439(Cr.PC)**

**/ 483(BNSS)**

**BETWEEN:**

1. FAYAZ KHAN  
S/O LATE YOUSAF KHAN,  
AGED 67 YEARS,  
RESIDING AT HARAVANAPURA,  
LAKSHMIPURA,  
NEAR MADHUVANAHALLI VILLAGE,  
PRESENTLY RESIDING AT NO.7/3009,  
(IN FRONT OF RMC YARD)  
KOLLEGALA TOWN,  
CHAMRAJANAGAR PIN 571 440

...PETITIONER

(BY SRI. PRASANNA KUMAR P.,ADVOCATE)

**AND:**

1. STATE BY  
KOLLEGALA RURAL PS,  
KOLLEGALA CIRCLE,  
CHAMRAJANAGARA DISTRICT  
REPRESENTED BY ITS  
STATE PUBLIC PROSECUTOR,  
HIGH COURT BUILDING,  
DR BR AMBEDKAR VEEDHI,  
BENGALURU-560 001

...RESPONDENT

(BY Smt.WAHEEDA H M, HCGP)





THIS CRL.P IS FILED UNDER SECTION 439 CR.P.C (U/S 483 BNSS) PRAYING TO ENLARGE THE PETITIONER/ACCUSED NO.4 ON BAIL IN CR.NO.55/2026 REGISTERED BY THE RESPONDENT IN KOLLEGALA RURAL P.S., PENDING BEFORE THE LEARNED PRL. CIVIL JUDGE (JR.DN) AND JMFC COURT, KOLLEGALA, CHAMRAJANAGARA DISTRICT, FOR THE OFFENCES P/U/S 20(b)(ii)(A),25,27(b) OF NDPS ACT, 1985.

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

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

### **ORAL ORDER**

The petitioner, who is accused No.4, in Crime No. Crime No.55/2026 of respondent/police for the offences punishable under Section 20(b)(ii)(A), 25, 27(b) of Narcotic Drugs and Psychotropic Substances Act, 1985, pending on the file of the learned Principal District and Sessions judge, Chamarajanagara is before this Court seeking release on bail. The petitioner was arrested on 3.4.2026.

2. The case of the prosecution is that on 3/4.4.2026, the Circle Police Inspector (CPI), Kollegala, lodged a complaint alleging commission of offence under the NDPS Act stating that the land belonging to the



petitioner/accused No.4 herein i.e. Sy.No.127, accused No.1 was hosting a birthday party in the presence of his family and friends. On receipt of credible information, the CPI visited the spot and conducted search of the premises situated in the land belonging to the petitioner. Though, respondent/police did not find/trace any narcotic substance in the premises belonged to the petitioner, with the help of the dog squad, they traced the substance in a black car bearing Regn. No.KA-05/NK4038 which was used by the accused No.1 to travel from Bengaluru to the spot parked nearby the said place. On verification, the respondent/police found and recovered 157.15 gms of charas, 43.24 gms of brown powder, 1.4 gms of roots, 6.26 gms of white powder and 22.54 gms of light brown color crystal powder. They also found 95.70 gms of ganja from the possession of accused No.2 from his two wheeler bearing Regn. No.KA-10/EJ6185. The respondent/police also made search in other three cars, but they did not find any substance. There were about 50 - 60 persons present



in the premises, who were also subjected to urine test drugs screen. The petitioner herein has been arrayed as accused No.4 because he alleged facilitated consumption of these substances. Accordingly, the case in Crime No.55/2026 of respondent/police was registered for the offences as noted above.

3. Learned counsel for the petitioner, taking this Court through the averments made in the complaint, more particularly at page No.22 of the petition, submits that even according to the respondent–Police, no contraband substance was found in the premises of the petitioner. It is pointed out that the alleged contraband was recovered only from the car belonging to accused No.1 and from the two-wheeler belonging to accused No.2. Thus under any circumstances, he insists, that it would not bring the petitioner within the provision of the offence contemplated under the NDPS Act. Hence, he seeks for grant of bail.



4. Learned High Court Government Pleader for the respondent/State opposing the petition submits that admittedly, the accused Nos.1 to 3 persons had gathered to celebrate the birthday at the place belonging to the petitioner. Therefore, it amounts he facilitating the consumption of contraband substances falling within the mischief of the Act. Hence, she prays for rejection of the bail.

5. Heard. Perused the records.

6. The relevant portion of the complaint found at page No.22 of the petition reads as follows:

"ನ್ಯಾಯಾಡೀಶರಿಂದ ತಪಾಸಣೆ ಮಾಡಿಸಬೇಕೆ ಅಥವಾ ಪತ್ರಾಂಕಿತ ಅಧಿಕಾರಿಗಳ ಸಮಕ್ಷಮ ತಪಾಸಣೆ ಮಾಡಿಸಬೇಕೆ ಎಂದು ಕೇಳಿ ನೋಟೀಸ್ ನೀಡಿದಾಗ ಆತನು ಪತ್ರಾಂಕಿತ ಅಧಿಕಾರಿಗಳಿಂದ ಪರಿಶೀಲಿಸಲು ಒಪ್ಪಿಕೊಂಡಿರುತ್ತಾನೆ. ನಂತರ ನಾವು - ಪಂಚರುಗಳ ಹಾಗೂ ಪತ್ರಾಂಕಿತ ಅಧಿಕಾರಿಗಳ ಸಮಕ್ಷಮದಲ್ಲಿ ಫಯಾಜ್ ಖಾನ್ ಬಿನ್ ಯೂಸೂಫ್ ಖಾನ್ ಎಂಬುವವರಿಗೆ ಸೇರಿದ ವಾಸದ ಮನೆಯ ಒಳಗೆ ಹೋಗಿ ರೂಂ ಹಾಗೂ ಹಾಲ್‌ನಲ್ಲಿದ್ದ ಬಟ್ಟೆ ಬ್ಯಾಗ್‌ಗಳು ಹಾಗೂ ಸೂಟ್ ಕೇಸನ್ನು ಪರಿಶೀಲಿಸಲಾಯಿತು ಯಾವುದೇ ಮಾದಕ ವಸ್ತು ದೊರೆತಿರುವುದಿಲ್ಲ. ನಂತರ ಶ್ವಾನದಳದ ಸಿಬ್ಬಂದಿಯ ಮೂಲಕ ವಾಸದ



ಮನೆಯ ಮುಂಭಾಗ ನಿಂತಿದ್ದ ಒಂದು ಕಪ್ಪುಬಣ್ಣದ ಕಾರಿನ ಬಳಿ ಹೋದಾಗ ಶ್ವಾನ ರೂಬಿಯು ಕಾರಿನ ಸುತ್ತಾ ಸುತ್ತುತ್ತಿದ್ದು, ಅಲ್ಲೇ ಇದ್ದ ಜಹೀರ್ @ ಖಾಲು ರವರನ್ನು ಕಾರಿನ ಬಗ್ಗೆ ವಿಚಾರಿಸಲಾಗಿ ನಾನು ಇದೇ ಕಾರಿನಲ್ಲಿ ಬೆಂಗಳೂರಿನಿಂದ ಇಲ್ಲಿಗೆ ಬಂದಿರುವುದಾಗಿ ತಿಳಿಸಿರುತ್ತಾನೆ. ಹಾಗೂ ಶ್ವಾನವು ಕಾರಿನ ಸುತ್ತಾ ಸುತ್ತುತ್ತಿದ್ದ ಬಗ್ಗೆ ಪ್ರಶ್ನಿಸಲಾಗಿ ಆತ ತನ್ನ ಕಾರಿನ ಮುಂಭಾಗದ ಎಡಭಾಗದ ಡೋರ್ ಬಳಿ ಪ್ಲಾಟ್ ಫಾರಂನಲ್ಲಿ ಒಂದು ಕಪ್ಪುಬಣ್ಣದ ಪ್ಲಾಸ್ಟಿಕ್ ಕವರನ್ನು ಎತ್ತಿ ಹಾಜರುಪಡಿಸಿದ್ದು, ಸದರಿ ಪ್ಲಾಸ್ಟಿಕ್ ಕವರ್ ಅನ್ನು ಪಂಚರ ಸಮಕ್ಷಮ ಸೋಕೋ ಅಧಿಕಾರಿಗಳ ಮೂಲಕ ಬಿಚ್ಚಿಸಿ ನೋಡಿ ಪರಿಶೀಲಿಸಲಾಗಿ ಈ ಪ್ಲಾಸ್ಟಿಕ್ ಕವರ್ ಒಳಗಡೆ ಸಣ್ಣ ಸಣ್ಣ ಕಪ್ಪುಬಣ್ಣದ ಪ್ಲಾಸ್ಟಿಕ್ ಕವರ್‌ಗಳು ಇದ್ದು ಇವುಗಳನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ ಮೇಲ್ನೋಟಕ್ಕೆ ಮಾದಕವಸ್ತುಗಳು ಇದ್ದಂತೆ ಕಂಡುಬಂದಿರುತ್ತದೆ. ನಂತರ ಸದರಿ ಆಸಾಮಿಯನ್ನು ಇವುಗಳನ್ನು ಇಟ್ಟುಕೊಳ್ಳಲು ನಿನ್ನ ಬಳಿ ಯಾವುದಾದರೂ ಲೈಸೆನ್ಸ್ ಇದೆಯೇ ಎಂದು ಕೇಳಲಾಗಿ ತನ್ನ ಬಳಿ ಯಾವುದೇ ಲೈಸೆನ್ಸ್ ಇರುವುದಿಲ್ಲವೆಂದು ತಿಳಿಸಿದನು."

7. Clearly even according to the prosecution, no substance is found within the premises of the petitioner/accused No.4. The contraband substance allegedly found in the car parked near the property belonging to the petitioner/accused No.4. There is, therefore, considerable force in the submission being made by the learned counsel for the petitioner regarding his innocence.



8. Section 25 of the NDPS Act reads as under:

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

9. A bare perusal of the above provision would indicate that the house, room, enclosure, space and place etc. should be allowed to be used with the knowledge to be used for commission of offence. This ingredient is missing in the complaint. Merely because, the contraband substance is found in a vehicle parked near the property of the petitioner, the respondent/police cannot invoke provision of Section 25 of the Act against the petitioner as has been sought to be done in the instant case. The respondent/police has failed to make out a prima facie case against the petitioner. Accordingly, the following:



**ORDER**

(i) Criminal Petition filed under Section 483 of BNSS, 2023 is ***allowed***.

(ii) The accused No.4/petitioner is directed to be enlarged on bail in Crime No.55/2026 of respondent/police for the offences punishable under Section 20(b)(ii)(A), 25, 27(b) of Narcotic Drugs and Psychotropic Substances Act, 1985, pending on the file of the learned Principal District and Sessions judge, Chamarajanagara subject to the following conditions:

a) The accused No.4/petitioner shall execute personal bond for a sum of Rs.2,00,000/- with one local surety for the like sum, to the satisfaction of the jurisdictional Court;

b) The accused No.4/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 accused No.4/petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The accused No.4/petitioner shall not involve in similar offences in future;

e) The accused No.4/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.

It is made clear that if any allegation is made regarding the petitioner influencing or attempting to influence any of the prosecution witnesses, this bail shall stand cancelled.

**Sd/-  
(M.G.S. KAMAL)  
JUDGE**

BKM  
List No.: 1 Sl No.: 73