

Karnataka High Court
Govindaraju Kunduru vs The State By on 24 June, 2021
Author: K.Natarajan

1

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF JUNE, 2021

BEFORE

THE HON'BLE MR. JUSTICE K. NATARAJAN

CRIMINAL PETITION No.3711/2021

BETWEEN:

GOVINDARAJU KUNDURU,
S/O KALYAN RAO,
AGED ABOUT 42 YEARS,
R/AT NO.13, LINGALAGUDI VILLAGE,
LOTHIGUDDA POST,
CHINTHAPALLI MANDALAM,
PADERU VIDHANASABHA CONSTITUENCY,
VISHAKAPATNAM DISTRICT,
ANDHRA PRADESH - 531 111.

...PETITIONER

(BY SRI. RAJESH RAO.K, ADVOCATE)

AND:

THE STATE BY BAGALURU P.S.,
REPRESENTED BY THE GOV'T PLEADER,
HIGH COURT OF KARNATAKA,
BENGALURU - 560 001.

...RESPONDENT

(BY SRI.THEJESH.P., HCGP)

THIS CRIMINAL PETITION IS FILED UNDER
SECTION 439 OF CR.P.C. BY THE ADVOCATE FOR THE
PETITIONER PRAYING THAT THIS HON'BLE COURT MAY
BE PLEASED TO ENLARGE THE PETITIONER ON BAIL IN
CR.NO.54/2021 OF BAGALUR POLICE STATION,
BENGALURU CITY FOR THE OFFENCE P/U/S
20(B)(ii)(c)OF N.D.P.S. ACT.

2

THIS CRIMINAL PETITION COMING ON FOR
ORDERS, THIS DAY THROUGH VIDEO CONFERENCING,
THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioner/accused under Section 439 of Cr.P.C., for granting bail in Crime No.54/2021 registered by Bagaluru Police, for the offence punishable under Section 20(B)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act.

2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader.

3. The case of the prosecution is that on the suo moto complaint of one Prashanth R Varni, police officer, Bagalur police station, registered a case against the petitioner alleging that on 24.03.2021, on the credible information at about 3.50 p.m, himself along with the staff apprehended the accused and between 4.15 p.m to 5.50 p.m seized ganja of 20 kg 110 grams from the petitioner and he was taken to the custody and remanded to Judicial custody. The petitioner has approached the Sessions Court for grant of bail, which came to be rejected. Hence, he is before this Court.

4. Learned counsel for the petitioner contended that the very registration of the case itself is suspicious, there is correction in the date of production of the accused before the court shown as 25.3.2021, the FIR reached the court along with complaint on 24.3.2021, the Investigating Officer violated all the mandatory provisions, not followed any of the provisions and not obtained the FSL report within fifteen days, not done qualitative and quantitative examination, the petitioner is in custody for nearly three months, he is ready to abide by any conditions imposed by this court.

5. Upon hearing the arguments of learned counsel for the petitioner and the learned HCGP and on perusal of the records, it shows that admittedly the FIR came to be registered on 24.3.2021 by showing the arrest of the petitioner/accused between 16.15 p.m and 17.50 p.m i.e., 4.15 p.m and 5.50 p.m. The FIR reached the court on 24.3.2021 at 8.30 p.m. The complaint also accompanied the FIR. The same was signed by the Special Judge. I do not find any fault in receipt of the FIR or the complaint by the Session Judge and Spl. Judge on 24.3.2021 and that the remand application was signed by the Spl. Judge on 25.3.2021 and the accused was produced before the court on the next day within 24 hours as per Section 57 of the Cr.P.C. The FIR was received on 24.3.2021 and the remand application was received on 25.3.2021 within 24 hours. Therefore, the question of suspecting the FIR and the remand application at this stage is not sustainable without entering into trial and examination of the Investigating Officer. The allegation against the petitioner is that he has brought more than 20 kg of ganja from Andhra Pradesh for the purpose of selling ganja. He was apprehended by the police. The ganja is more than 20 kg which is commercial quantity and the investigation is still in progress. This court has already held that the receipt of FSL report is only a directory but not mandatory in CrI.P.No.8065/2020 in the case of Arjav Deepak Mehta Vs. State of Karnataka and the FIR came to be registered and after sending the same, the remand application is followed subsequently. Whether the Investigating Officer violated the procedure or not is required to be considered at the time of trial and until charge sheet is filed, it is not able to verify the documents as to whether there is any violation of mandatory provision or not. Therefore, I am of the view that if the petitioner is granted bail, there is every possibility of petitioner tampering the prosecution witnesses and absconding from the case cannot be ruled out as he is from Andhra Pradesh. Therefore, petitioner is not entitled for bail.

Accordingly, the Criminal Petition is dismissed.

Sd/-

JUDGE cbc