

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20<sup>TH</sup> DAY OF JANUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

CRIMINAL PETITION NO.295/2022

BETWEEN:

SHRIRAM @ BHARATH  
S/O JAI ROOPARAM @ ACHARI  
AGED ABOUT 27 YEARS  
R/AT MAGADI ROAD  
H P PETROL BUNK  
GOLLARAHATTI  
BENGALURU-560 091 ... PETITIONER

(BY SRI KARTHIK KUMAR K, ADVOCATE)

AND:

STATE BY MANDYA EAST POLICE  
REP. BY STATE PUBLIC PROSECUTOR  
HIGH COURT BUILDINGS  
BENGALURU-560 001 ... RESPONDENT

(BY SRI H.S.SHANKAR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.156/2021 REGISTERED BY MANDYA EAST POLICE STATION, MANDYA FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 8(c), 17(a), 21(b), 22(b) OF NDPS ACT.

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

**ORDER**

This petition is filed under Section 439 of Cr.P.C. seeking regular bail of the petitioner/accused No.2 in Crime No.156/2021 of Mandya East Police Station, Mandya, for the offences punishable under Sections 8(c), 17(a), 21(b) & 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('the NDPS Act' for short).

2. Heard the learned counsel appearing for the petitioner and the learned High Court Government Pleader appearing for the respondent/State.

3. The factual matrix of the case is that on a credible information received on 19.11.2021, this petitioner and accused No.1 were subjected to search and found 47 grams of heroin from the pocket of this petitioner and 15 grams of opium with cover and one mobile and a cash of Rs.2,750/-. Hence, a case has been registered against this petitioner and he has been in custody from 19.11.2021.

4. The learned counsel appearing for the petitioner would submit that the heroin which was seized at the instance of this petitioner is only an intermittent quantity and this petitioner is in custody from 19.11.2021 and his presence is not required for custodial interrogation and there are no criminal antecedents against this petitioner. The learned counsel also would submit that the investigation has already been completed and charge-sheet has been filed. Hence, he may be enlarged on bail.

5. Per contra, the learned High Court Government Pleader appearing for the State would submit that the small quantity is 5 grams and seized heroin is 47 grams i.e., intermittent quantity. Apart from that, opium also seized and even though no criminal antecedents against him and during the course of investigation collected the material and filed the charge-sheet.

6. Having considered the submissions of the learned counsel appearing for the petitioner as well as the learned High Court Government Pleader appearing for the State and also on perusal of the material available on record, at the instance of

this petitioner 47 grams of heroin and 15 grams of opium, were seized. Apart from that, one mobile and a cash of Rs.2,750/- were also seized. Having taken note of the intermittent quantity and there are no criminal antecedents against this petitioner, I am of the opinion that, it is a fit case to exercise the powers under Section 439 of Cr.P.C., since the charge-sheet has already been filed and no further custodial interrogation is necessary, subject to imposing certain conditions to protect and safeguard the interest of the prosecution. Hence, I pass the following:-

ORDER

The Petition is allowed. Consequently, the petitioner/accused No.2 shall be released on bail in Crime No.156/2021 of Mandya East Police Station, Mandya, for the offences punishable under Sections 8(c), 17(a), 21(b) & 22(b) of the NDPS Act, subject to the following conditions:

- (i) The petitioner/accused No.2 shall execute personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the like-sum to the satisfaction of the jurisdictional Court.

- (ii) The petitioner/accused No.2 shall not indulge in tampering the prosecution witnesses.
- (iii) The petitioner/accused No.2 shall appear before the jurisdictional Court on all the future hearing dates, unless exempted by the Court for any genuine cause.
- (iv) The petitioner/accused No.2 shall not leave the jurisdiction of the Trial Court without prior permission of the Court, till the case registered against him is disposed of.
- (v) However, it is made it clear that if the petitioner indulges in similar offences in future, the State is having liberty to approach the Court for cancellation of bail.

**Sd/-  
JUDGE**

cp\*