

(2025) 04 KAR CK 0424

In the Karnataka High Court, Principal Bench

Case No : Criminal Petition No. 4891 Of 2025 (482(Cr.PC) / 528(BNSS))

Mohamed Afnas @ Afnas

APPELLANT

Vs

State Of Karnataka & Ors.

RESPONDENT

Date of Decision : 16-04-2025

Acts Referred:

Bharatiya Nyaya Sanhita, 2023 — Section 309(4)
Constitution Of India, 1949 — Article 21, 22, 22(1)

Citation : (2025) 04 KAR CK 0424

Hon'ble Judges : Hemant Chandangoudar, J

Bench : Single Bench

Advocate : Hashmath Pasha, Kariappa N A, Rahul Rai

Final Decision : Partly Allowed

Judgement

Hemant Chandangoudar, J

1. The petitioner was arrested in Crime No.225/2024 for the offences punishable under Sections 178, 179, 180, 181, 182 of the Bharatiya Nyaya Sanhita (BNS), 2023 is before this Court seeking relief.
2. Petitioners' primary contention is that, at the time of arrest, the petitioner was not served with the grounds of arrest which is in violation of Section 50 of BNS 2023 and Article 22(1) of the Constitution of India.
3. The learned High Court Government Pleader for the respondent - State has placed on record the intimation of arrest.
4. A perusal of the same indicates that, except informing that the petitioner has been taken into custody for investigation in Crime No.225/2024 for the aforesaid offences, no grounds are disclosed for arresting the petitioner.
5. The Hon'ble Apex Court in the case of Vihaan Kumar -vs- The State of Haryana & Another, reported in (2025) 2 SCR 424 has reiterated that the requirement of informing the person arrested of the grounds of arrest is not a

mere formality, but a mandatory constitutional requirement. Article 22 is included in Part III of the Constitution under the heading of fundamental rights. Thus, it is the fundamental right of every person - who is arrested and detained in custody, to be informed of the grounds of arrest as soon as possible. If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee as guaranteed under Article 22(1). It will also amount to depriving the arrestee of his liberty, to effectively challenge the arrest. Article 21 of the Constitution states that no person can be deprived of his liberty, except in accordance with the procedure established by law.

6. In the light of the decision of the Apex Court in the aforesaid case, the arrest of the petitioner stand vitiated for non-compliance of Section 50 of BNS 2023, and Article 22(1) of the Constitution of India, and in such circumstances, the petitioner is entitled to be released from judicial custody.

7. Accordingly, the petition is allowed.

8. The respondent No.1 and the Chief Superintendent of Central Prison, Parappana Agrahara, Bengaluru, is hereby directed to release the petitioner forthwith from judicial custody in C.C.No.41772/2024, on the file of the learned VI Additional Chief Metropolitan Magistrate, Bengaluru, arising out of Crime No.225/2024 registered by the Halasuru Gate Police Station, subject to the following conditions:

- i) The petitioner-accused shall execute a personal bond for a sum of Rs.1,00,000/- with two surities for the like sum of which, one will be the Local Surety to the satisfaction of the Trial Court within a period of two weeks from the date of his release;
- ii) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;
- iii) The petitioner shall appear before the Trial Court as and when summoned;
- iv) The Registry is directed to communicate this order to the Jail Authorities concerned forthwith without any delay through e-mail and telephonically.
- (v) Liberty is reserved to the petitioner to file a petition afresh challenging the charge sheet.