



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JANUARY, 2024

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 15674 OF 2023 (GM-RES)

Between:

Sadatulla Syed
S/o. Amrulla Syed,
Aged about 63 years,
R/at No.78, 33rd Main, 5th Cross,
TMCS Layout, J.P. Nagar,
Bengaluru - 560078.

...Petitioner

(By Sri. Mohammed Tahir, Advocate)

And:

National Investigation Agency
Ministry of Home Affairs,
Hyderabad Branch,
Rep. by Special Public Prosecutor,
Office at High Court Complex,
Opposite to Vidhana Soudha,
Bengaluru-560001.

...Respondent

(By Sri. P.Prasanna Kumar, Spl.PP.,)

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India read with 482 of Cr.P.C., praying to quash the impugned order dated 21/03/2023 at Annexure-A passed in Spl.CC No. 378/2021 by the Hon'ble XLIX Additional City Civil and Session Judge (Special Court for trail for NIA





cases) at Bengaluru and consequently appreciate the memo dated 21/03/2023 filed by the petitioner at Annexure-B or pass any other order as this Hon'ble Court.

This Writ Petition, coming on for **orders**, this day, **Sreenivas Harish Kumar J.**, made the following:

ORDER

Heard Sri Mohammed Tahir, learned counsel for the petitioner and Sri P.Prasanna Kumar, learned Spl.PP for the respondent/NIA.

2. This petition under Section 482 of Cr.P.C., has been filed seeking to quash annexure-A, the order dated 21.03.2023 passed in Spl.C.C.No.378/2021 on the file of the XLIX Additional City Civil and Sessions Judge (Special Judge for trial of NIA cases), Bengaluru.

3. The petitioner is the surety for accused No.21 in Spl.C.C.No.378/2021. When the petitioner filed his surety affidavit, he produced original sale deed of his property to satisfy the trial court that he is a solvent surety. Having



accepted the surety bond of the petitioner, the court ordered for keeping the sale deed in safe custody. After the suretyship of the petitioner was accepted, an entry in the encumbrance certificate was also made in Form No.15 which is produced as Annexure-E. In the course of proceedings, the petitioner applied for return of the sale deed. The trial court rejected the application of the petitioner/surety and hence this petition under Section 482 of Cr.P.C.

4. At the outset it may be stated that the court accepting the surety has to be satisfied whether the surety is solvent or not and for that limited purpose, the court will call upon the surety to produce the document of title of a property belonging to him. In case xerox copy of the title deed is produced, the court may require the surety to produce the original for the purpose of



comparing it with the Xerox copy and may return the original thereafter.

5. In this case after the original of the sale deed was produced, the court ordered to keep it in safe custody. In our opinion, the court should have returned the original sale deed to the surety after obtaining his bond. Once the surety wants the sale deed to be returned, the court must return it.

6. According to petitioner, the property is worth Rs.2 crores and the surety bond is for Rs.2 lakhs. In case the accused does not appear before the court, the surety bond may be forfeited and in that event the surety has to pay the bond amount. In case the surety fails to pay the bond amount, as a last resort, the court can order for attaching the property belonging to the surety. Law also provides for showing remission in the bond



amount. In this case it appears that the accused is regularly appearing and a charge is also created on the property which has been reflected in the encumbrance certificate produced at Annexure-E. In this view the trial court should have entertained the application of the petitioner and ordered for returning the original sale deed. Hence the following:

ORDER

The writ petition is allowed.

The impugned order dated 21.03.2023 passed by the XLIX Additional City Civil and Sessions Judge (Special Judge for trial of NIA Cases), Bengaluru in Spl.C.C. No.378/2021 is quashed.

The trial court is hereby directed to return the original sale deed to the petitioner/surety.



Sri Mohammed Tahir, learned counsel for the petitioner submits that certified copy of the sale deed is already available in the record. Therefore the trial court shall retain the certified copy and return the original.

However, the entry in the encumbrance certificate shall continue till the trial is concluded.

**Sd/-
JUDGE**

**sd/-
JUDGE**

KMV
List No.: 1 Sl No.: 1