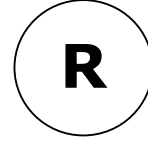




IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH



DATED THIS THE 9TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

CRIMINAL REVISION PETITION NO.200105 OF 2025

(397(Cr.PC)/438(BNSS))

BETWEEN:

SHAKUNTALA W/O BHOGAPPA NAYAK DESAI,
AGE: 47 YEARS, OCC: AGRICULTURE,
R/O BEVOOR, TQ. AND DIST. BAGALKOT-587101.

...PETITIONER

(BY SRI SHIVANAND V. PATTANSHETTI, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH ADARSH NAGAR POLICE STATION,
DIST. VIJAYAPURA-586101.
REP. BY ADDL. STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING, KALABURAGI.



...RESPONDENT

(BY SRI JAMADAR SHAHABUDDIN., HCGP)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 OF CR.P.C (OLD) UNDER SECTION 438 READ WITH 442 OF BNSS (NEW) PRAYING TO SET ASIDE THE JUDGMENT DATED 02-02-2024 PASSED BY THE IV ADDL. DIST AND SESSIONS JUDGE VIJAYAPURA AT VIJAYAPURA IN CRIMINAL APPEAL NO.69/2023 THEREBY CONFIRMING THE



JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 23-08-2023 PASSED BY THE V ADDL. CIVIL JUDGE AND JMFC COURT VIJAYAPURA IN C.C. NO. 9213/2022 FOR THE OFFENCE PUNISHABLE UNDER SECTION 58 OF KARNATAKA PRISONS (AMENDMENT) ACT, 2022 AND ACQUIT THE PETITIONER.

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

CORAM: HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

(PER: HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM)

This petition is filed assailing the judgment of conviction and order on sentence dated 23.08.2023 rendered by the learned V Additional Civil Judge and JMFC, Vijayapur (for short 'Trial Court') in C.C.No.9213/2022 and confirmed by the learned IV Additional District and Sessions Judge, Vijayapur (for short 'Appellate Court') in Criminal Appeal No.69/2023 for the offences punishable under Section 58 of the Karnataka Prisons (Amendment) Act, 2022 (for short 'Act, 2022').

2. Though this matter is listed for orders, heard learned counsel for the petitioner on merits.



3. The facts leading to the case are as under:

The petitioner/accused No.1, who was undergoing sentence upon her conviction in a case registered under the provisions of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), had applied for grant of parole. The competent authority, on due consideration, was pleased to grant parole to the petitioner on 09.03.2022 for a period of 30 days. Subsequently, the said parole was further extended for an additional period of 60 days. Upon expiry of the extended parole period, the petitioner/accused No.1 was under a legal obligation to voluntarily surrender before the Central Prison, Vijayapur, on or before 08.06.2022. However, the petitioner failed to surrender within the stipulated time. Consequently, the prison authorities initiated proceedings against her under Section 58 of the Act, 2022 for violation of parole conditions and unauthorized absence from lawful custody.

4. The learned Trial Court, after ensuring compliance with the mandatory requirements of Section



207 of the Code of Criminal Procedure, 1973, framed charges against the petitioner/accused No.1 for the offence punishable under Section 58 of the Act, 2022. During the course of trial, the prosecution examined in all ten witnesses and produced thirty-two documentary exhibits in support of its case to establish that the petitioner had willfully failed to surrender upon the expiry of the parole period. Upon meticulous appreciation of the oral and documentary evidence, the learned Trial Judge came to the categorical conclusion that the prosecution had successfully proved the guilt of the petitioner beyond reasonable doubt for the offence punishable under Section 58 of the Act, 2022. Accordingly, the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, and in default of payment of fine, to further undergo simple imprisonment for a period of thirty days.

5. Being aggrieved by the said judgment of conviction and order of sentence, the petitioner preferred



Criminal Appeal No.69/2023 before the Appellate Court. The learned Appellate Judge, upon an independent and comprehensive re-appreciation of the entire evidence on record, concurred with the findings recorded by the Trial Court. The Appellate Court observed that none of the grounds urged in the appeal warranted interference with the well-reasoned judgment of the Trial Court. The Appellate Court also negated the contention that the Trial Court had failed to extend the benefit of Section 428 of the Code of Criminal Procedure, 1973, holding that such a benefit was not attracted in the facts of the present case. Consequently, the appeal came to be dismissed, affirming both the conviction and the sentence imposed by the Trial Court.

6. The learned High Court Government Pleader, supporting the concurrent findings rendered by both the Courts below, contended that the prosecution evidence is unimpeachable and clearly establishes the culpability of the petitioner beyond reasonable doubt. It was further



submitted that both the Courts have meticulously analyzed the evidence on record and have assigned cogent and convincing reasons to sustain the conviction. It was thus urged that there are no valid grounds made out in the revision petition to warrant interference, and consequently, the revision petition deserves to be dismissed in limine as being devoid of merit.

7. Having heard the learned counsel for the petitioner and the learned High Court Government Pleader, and upon perusal of the records of both the Courts below, this Court has bestowed its anxious consideration to the rival submissions. The principal contention advanced on behalf of the petitioner is that her failure to surrender before the prison authorities was neither deliberate nor intentional but was occasioned due to serious health complications arising during the Covid-19 pandemic period. It is contended that the petitioner was under medical treatment and was residing in her son's house



during that time, and therefore, could not surrender within the stipulated period.

8. This Court finds that though such a contention is advanced, the petitioner has not placed on record any credible or cogent material, either before the Trial Court or before the Appellate Court, to substantiate the said plea. No medical records, prescriptions, or any form of corroborative evidence were produced to establish that the petitioner was incapacitated or medically unfit to report back to the prison authorities on the due date. In the absence of any rebuttal or mitigating evidence, the prosecution version that the petitioner had deliberately failed to surrender upon expiry of the parole period stands firmly established. Once the petitioner had availed parole and subsequently secured an extension of 60 days, she was bound by the conditions imposed in the parole order. The failure to voluntarily surrender within the stipulated time, despite availing such benefit, demonstrates clear non-compliance and attracts the penal consequences



prescribed under Section 58 of the Act, 2022. The fact that the petitioner was subsequently apprehended and brought back to custody further substantiates the prosecution case.

9. Both the Courts below, upon appreciation of the entire evidence, have recorded concurrent findings of fact based on reliable and clinching evidence adduced by the prosecution. The findings recorded by the Courts are neither perverse nor contrary to the material on record. In exercise of revisional jurisdiction under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, this Court is not expected to re-appreciate the entire evidence as if it were a Court of appeal, unless there is a manifest illegality, gross miscarriage of justice, or perversity in appreciation of evidence. No such infirmity is made out in the present case warranting interference with the concurrent judgments rendered by the Courts below.

10. In view of the above discussion, this Court is of the considered opinion that the revision petition is devoid



of any merit and does not call for any interference. Accordingly, the Criminal Revision Petition stands ***dismissed.***

11. Before parting with the case, this Court deems it appropriate to observe that the provisions contained under Section 58 of the Act, 2022 governing violation of parole conditions and unauthorized absence from lawful custody are quite stringent in nature. The said provision contemplates imprisonment which may extend up to five years, and fine, for any convict who, having been released on parole , fails to surrender within the time stipulated in the order granting such release. The underlying legislative intent is to ensure that the limited liberty granted to convicts under parole is not abused, and that the sanctity of judicial orders and prison discipline is maintained.

12. It has come to the notice of this Court in several cases that convicts released on parole often remain unaware of the stringent consequences of failing to surrender within the prescribed time, and such ignorance



frequently results in further criminal prosecution under Section 58 of the Act. This situation warrants a proactive approach on the part of the prison administration to educate and sensitize convicts regarding the legal obligations attached to parole and the severe penal consequences that follow in case of non-compliance.

13. Accordingly, this Court issues the following guidelines to be observed by all Superintendents of Central and District Prisons across the State while granting and effectuating parole release orders:

Mandatory Briefing:

14. At the time of release on parole, the Jail Superintendent or the designated parole officer shall mandatorily brief every convict, in a language understood by the convict, regarding the conditions of release and the specific consequence of failure to surrender within the stipulated period, including the punishment prescribed under Section 58 of the Act, 2022.

**Written Undertaking:**

15. A written undertaking shall be obtained from the convict acknowledging that he or she has understood the conditions of parole and the legal consequences of any breach thereof. A copy of the parole order along with the extract of Section 58 of the Act shall be provided to the convict and countersigned by the releasing officer.

Awareness Pamphlet:

16. The Department of Prisons, in coordination with the Karnataka State Legal Services Authority (KSLSA), shall prepare an informative pamphlet or booklet in Kannada and English, summarizing the rights, duties, and liabilities of parolees, including the penal provisions governing violation of parole. The same shall be distributed to all prisons and made available to inmates and their family members.

17. It is also necessary to emphasize that a conviction recorded under Section 58 of the Act, 2022



carries distinct and independent penal consequences. The statutory framework clearly indicates that the sentence imposed for violation of parole conditions or unauthorized absence from lawful custody is to be undergone only upon completion of the original substantive sentence for which the convict was initially imprisoned. This legal position presupposes that the sentence under Section 58 of the Act does not run concurrently with the original sentence but operates consecutively, as the offence constitutes a fresh and distinct act of indiscipline and breach of lawful custody.

18. Therefore, while releasing any convict on parole, the jail authorities must specifically apprise the convict that in the event of failure to surrender within the prescribed time or in case of violation of any condition of parole, not only will prosecution be initiated under Section 58 of the Act, 2022, but any sentence awarded upon conviction thereunder will have to be served after completion of the original sentence, and not



simultaneously with it. Such communication should form part of the written acknowledgment obtained from the convict at the time of release.

Record Maintenance:

19. The Prison authorities shall maintain a Parole Compliance Register recording the details of every parole release, date of expiry, due date of surrender, and whether surrender was duly made or delayed, along with reasons. The register shall be periodically reviewed by the Deputy Inspector General of Prisons concerned.

Coordination with Police:

20. In cases where the convict fails to surrender within the stipulated time, the Prison Superintendent shall promptly inform the jurisdictional police station within 48 hours for necessary action in accordance with Section 58 of the Act, 2022.



Legal Counselling:

21. The District Legal Services Authority (DLSA) shall ensure that every convict applying for parole is made aware of the conditions and potential consequences through legal literacy sessions conducted within the prison premises at regular intervals.

22. The Registrar General of this Court is directed to forward a copy of this judgment to:

- i. The Director General of Prisons and Correctional Services, Karnataka,
- ii. The Karnataka State Legal Services Authority (KSLSA), and
- iii. All District Legal Services Authorities (DLSAs) across the State.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

SRT
List No.: 1 Sl No.: 20
CT:SI