

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF FEBRUARY 2018

BEFORE

THE HON'BLE MR. JUSTICE K.N.PHANEENDRA

WRIT PETITION NO.4426 OF 2018 (GM-RES)

BETWEEN:

SRI.HASAINAR S
AGED ABOUT 60 YEARS
S/O LATE MAIDIN BYARI
R/AT SAMPYA MOOLE HOUSE
KURIYA VILLAGE
PUTTUR TALUK
DAKSHINA KANNADA DISTRICT – 574 201.

... PETITIONER

(BY SRI.VINOD KUMAR M, ADV.)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY HOME SECRETARY
MINISTRY OF HOME AFFAIRS
VIDHANA SOUDHA
BANGALORE – 560 001.
2. THE STATION HOUSE OFFICER
PUTTUR TOWN POLICE STATION
PUTTUR, 574 201
DAKSHINA KANNADA DISTRICT
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
3. SMT.RAJESHWARI
W/O VASANTHAKUMAR
AGED 57 YEARS
RESIDING AT KEERTHANA RESIDENCY

BOLUVAR
PUTTUR VILLAGE
PUTTUR TALUK, 574 201.
DAKSHINA KANNADA DISTRICT.

...RESPONDENTS

(BY SRI S.RACHAIAH HCGP FOR R-1 & R-2
R3 NOTICE DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA R/W SECTION 482 OF CR.P.C. WITH A PRAYER TO DECLARE THAT CONDUCTING POLYGRAPHY TEST ON THE PETITIONER IS VIOLATIVE OF ARTICLE 20(3) OF CONSTITUTION OF INDIA.

THIS WRIT PETITION COMING ON FOR *PRELIMINARY HEARING*, THIS DAY, THE COURT PASSED THE FOLLOWING:-

ORDER

Notice to be issued to respondent No.3 is dispensed, as the same is unnecessary.

2. Heard the learned counsel for the petitioner and also heard the learned SPP for the State.

3. Perused the records

4. The petitioner has sought for quashing of condition No.4 in the bail order passed by the learned Judicial Magistrate of First Class at Puttur, Dakshina

Kannada in Crime No.7/2018 vide orders dated 20.01.2018.

5. The Principal Senior Civil Judge and A.C.J.M. at Puttur while passing the bail order in Crime No.7/2018 has imposed condition No.4 in the following manner:

The accused shall assist the I.O. to undergo polygraphy test whenever directed.

6. The Apex court in a decision reported in **(2010) 3 SCC (Cri) 1** between **Selvi and Others vs. State of Karnataka** has in detail considered the test to be conducted against the accused, which are prohibited and which amounts to violation of right regarding self-incrimination. In view of the above said decision, ordering for polygraphy test or any other test, which is not contemplated under Code of Criminal Procedure, which self-incriminates the accused is hit by Article 21 of the Constitution of India.

7. In view of the above said decision of the Apex court, the trial Court ought not to have imposed such a

condition while granting bail. Under the above said circumstances, the said condition imposed by the trial Court is in contradiction to the judgment of the Apex Court. Therefore, the same is liable to be quashed as prayed for. Hence, the following:

O R D E R

The petition is **allowed** and condition No.4 in the order dated 20.01.2018 in Crime No.7/2018 passed by the Principal Senior Judge and ACJM at Puttur is hereby quashed.

SD/-
JUDGE

ss/