



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 30<sup>TH</sup> DAY OF JANUARY, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE K.NATARAJAN**

**CRIMINAL PETITION NO. 10518 OF 2022**

**BETWEEN:**

1. SRINIVAS.S

...PETITIONER

(BY SRI. NISHIT KUMAR SHETTY, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA BY  
LAXMIPURAM POLICE STATION,  
MYSORE DIST-570004  
REPRESENTED BY  
STATE PUBLIC PROSECUTOR  
HIGH COURT BUILDING  
BANGALORE-560001

...RESPONDENT

(BY SRI. R.D. RENUKARADHYA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO ALLOW THE PETITION AND SET ASIDE THE ORDER DATED 26.05.2022 MADE IN CR.NO.10/2022 BY THE VIII ADDL.CIVIL JUDGE AND J.M.F.C AT MYSORE AND ORDER DATED 18.08.2022 MADE IN CRL.RP.NO.124/2022 BY PRL.DISTRICT AND SESSIONS JUDGE AT MYSORE IN RESPECT OF APPLICATION FILED BY THE PETITIONER UNDER SECTION 451 READ WITH SECTION 457 OF CR.PC AND ALLOW THE APPLICATION FILED BY THE PETITIONER UNDER SECTION 451 READ WITH SECTION 457 OF CR.PC AND ORDER TO RELEASE THE MOBILE PHONES i.e VIVO MOBILE PHONE SUBJECTED TO P.F.NO.14/2022 TO THE CUSTODY OF THE PETITIONER.



THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

1. This petition filed by the petitioner/accused under Section 482 of Cr.P.C for quashing the order passed by the District and Sessions Judge as well as Magistrate for having rejected the application filed by the petitioner under Section 451 read with 457 of Cr.P.C in Crime No.10/2022 registered by Lakshmipura police, Mysuru for the offence punishable under Sections 332, 353 and 504 of IPC

2. Heard the arguments of learned counsel for the petitioner and learned HCGP for the State.

3. Learned counsel for the petitioner contended the petitioner is the owner of the VIVO mobile phone which was seized by the police during the investigation and now investigation is completed and charge sheet has been filed. Hence petitioner filed application for the release of the mobile phone, which came to be rejected. He also filed revision petition before the Sessions Judge, Mysore, which also came to be rejected, hence he is before this court.



4. The learned counsel for the petitioner submits the petitioner is the owner of the VIVO mobile phone and investigation is already completed, therefore Investigating Officer has directed to release the mobile phone in his favour and there is no need for any investigation and mobile phone is not required. Hence prayed for allowing the petition.

5. Per contra learned HCGP objected the petition and contended that as per the report of the Investigating Officer obtained by him, there are so many notices issued to this petitioner for opening the lock of the mobile phone, in order to collect the data of the video clippings, but the petitioner is not co-operating with the Investigating Officer. The Investigating Officer made complaint against this petitioner before the trial court, however, inspite of the trial court advising him to open the lock of the mobile phone, the petitioner has not yet opened. Therefore the mobile phone shall not be released in his favour, hence prayed for dismissing the petition.

6. Having heard the arguments and perused the records, ofcourse on perusal of the records, which reveals the petitioner said to have covered the video graph through his mobile phone during the proceedings of Mysore Urban



Development Authority (MUDA). Also, the petitioner said to have prevented discharging of official duty of the MUDA commissioner, hence complainant came to be filed against this petitioner. This petitioner said to be RTI activist, who is said to have covered the proceedings of the meeting. After registering the FIR the petitioner said to be arrested and released on bail. The police seized the mobile phone for having taken the video clippings. Now the investigating is completed, charge sheet has been filed. The Investigation Officer categorically stated the petitioner is not cooperating with the Investigation Officer for opening the lock of the mobile phone in order to download the data and also send it for the FSL. The report of the Investigation officer reveals there were so many notices issued to the petitioner, but inspite of the same, the petitioner is not opening the lock of mobile phone by using the password. Though the charge sheet is filed, but the police officer is not able to retrieve the data from the mobile phone due to locking of the mobile phone by this petitioner. The petitioner is keeping the password secret and is not co-operating with the Investigating Officer. The notices were issued to the petitioner on 12.4.2022, 19.4.2022 and 9.5.2022 and inspite of the issuing notices at different intervals, the petitioner is not



cooperating and has not unlocked the mobile phone by using the password which shows that the petitioner is not cooperating with Investigation Officer. Therefore, until the petitioner is opening the lock of the mobile phone and helping the Investigating Officer to verify the video clippings and other messages, this petitioner is not entitled for the release of the mobile phone. The petitioner not co-operated, the Investigating Officer then they seek cancellation of bail. If the petitioner do not co-operate with the Investigation Officer, then they can seek cancellation of his bail.

Accordingly, this petition is ***dismissed***.

However, the petitioner is having liberty to approach the Court for release of the mobile phone by opening the video after unlocking the mobile phone by using the password.

**Sd/-  
JUDGE**

AKV