



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 24840 OF 2025 (GM-RES)

BETWEEN:

REESHAN THAJUDDIN SHEIKH
S/O THAJUDDIN SHEIKH,
AGE ABOUT 24 YEARS,
R/A NO.308, 3RD FLOOR,
MEENA ANMOL, SHANTHINAGAR,
2ND CROSS, VARAMBALLI, BRAHMAVARA,
UDUPI - 576213.
UTP NO.524/2023.

...PETITIONER

(BY SRI. SPARSH SHETTY, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY ITS SECRETARY,
DEPARTMENT OF HOME, VIDHANA SOUDHA,
BANGALORE - 560001.
2. THE ADDITIONAL GENERAL OF POLICE
AND INSPECTOR GENERAL OF PRISON,
NO.04, SHESHADRI ROAD,
BANGALORE - 560009.
3. CHIEF SUPERINTENDENT
CENTRAL PRISON,
BENGALURU - 560100.
4. CHIEF SUPERINTENDENT
CENTRAL PRISON,
BELAGAVI - 560100.

...RESPONDENTS

(BY SRI. M.R.PATIL, HCGP FOR R1 TO R4)





THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C. PRAYING TO QUASH THE ORDER DTD 05.08.2025 PASSED IN SPL CC NO. 706/2023 PENDING IN THE COURT OF HON'BLE XLIX ADDL CITY CIVIL AND SESSION JUDGE BENGALURU AT ANNEX-A AGAINST THE PETITIONER IS CONCERNED AS ARBITRARY VIOLATIVE OF ARTICLE 21 OF THE CONSTITUTION OF INDIA AND IS IN VIOLATION OF PRINCIPLES OF NATURAL JUSTICE.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

This petition is filed assailing the order dated 05.08.2025 passed in Special Case No.706/2023. Consequently, a mandamus is sought against the respondents to re-transfer the petitioner in his original place of confinement, namely at Central Prison, Bengaluru.

2. The petitioner contends that his transfer from Bengaluru Central Prison to Belagavi Central Prison is violative of the principles of natural justice, thereby infringing his fundamental rights under Article 21 of the Constitution of India. He submits that he has been in judicial custody since 06.01.2023 in UTP No.524/2023 and



has maintained good conduct in accordance with prison rules. During his incarceration, he has enrolled in the Bachelor of Commerce programme through Indira Gandhi National Open University under the distance education scheme. It is his grievance that in the absence of cogent or justifiable reasons for such transfer, he is seriously prejudiced, as the impugned transfer disrupts his education and rehabilitation efforts.

3. Learned counsel for the petitioner, reiterating the above submissions, has placed reliance on the decision of the Coordinate Bench in ***Pradosh S. Rao v. State of Karnataka and Others*** (W.P.No.23848/2024). He submits that the facts and circumstances in the present case are substantially identical to those in the said decision, and therefore the ratio laid down therein squarely applies to the petitioner's case.

4. Per contra, learned High Court Government Pleader has sought to justify the transfer, contending that



the petitioner has no vested right to insist upon incarceration in a particular prison. It is submitted that the transfer from Bengaluru to Belagavi Central Prison was necessitated purely on security considerations and was effected pursuant to the requisition made by the Chief Superintendent, Central Prison, Bengaluru.

5. I have heard the learned counsel appearing on both sides and perused the material on record, including the order impugned.

6. The petitioner, an under-trial prisoner lodged at Bengaluru Central Prison, has now been transferred to Belagavi Central Prison pursuant to an order passed by the learned Sessions Judge. The order reveals that such transfer was prompted by a requisition submitted by the Chief Superintendent of Central Prison, Bengaluru, who in turn acted upon a report of the Superintendent of Police, NIA Branch Office, Bengaluru, and the communication of the Director General of Prisons and Correctional Services,



citing "security reasons." On that basis, the petitioner was shifted from Bengaluru to Belagavi Central Prison.

7. The Coordinate Bench, in the judgment relied upon by the petitioner, while considering ***State of Maharashtra vs. Saeed Sohail Sheikh [(2012) 13 SCC 192]***, has categorically held that the shifting of a prisoner is neither a mere administrative nor a ministerial act. The Hon'ble Apex Court has laid down that whenever such shifting is sought by way of judicial or quasi-judicial order, it becomes obligatory upon the concerned Court to apply its mind to the circumstances projected for such transfer, and equally, to afford an effective opportunity to the prisoner to place his objections. This safeguard flows directly from the constitutional guarantee under Article 21 that no person shall be deprived of his liberty except by procedure established by law which is fair, just and reasonable.



8. In the present case, it is not in dispute that the petitioner was never served with a copy of the requisition made by the Chief Superintendent of Central Prison, Bengaluru, nor was he given an opportunity to contest the grounds urged therein. The petitioner was thus denied his right to be heard before an order adversely affecting him was passed. This omission goes to the root of the matter, as the order impugned is not preceded by compliance with the principles of natural justice. Furthermore, the order passed by the learned Sessions Judge merely records the phrase "security reasons" as the ground for transfer. It neither discloses the nature of such security threat nor demonstrates an application of judicial mind to the materials placed by the prison authorities. Such a cryptic recital falls short of the standards required when fundamental rights under Article 21 are at stake.

9. An under-trial prisoner continues to enjoy all constitutional protections, save those which are necessarily curtailed by the fact of lawful custody. The



right to life and personal liberty under Article 21 encompasses the right to fair procedure, humane treatment, and protection against arbitrary exercise of power. If the transfer of an under-trial prisoner is to be ordered, the Court must balance the security concerns projected by the authorities with the legitimate rights of the prisoner to education, rehabilitation, family visitation, and access to legal assistance. In the instant case, the order impugned does not reflect any such balancing exercise. Instead, it proceeds on a bare assertion of "security reasons" without disclosing the factual basis for such conclusion.

10. This Court is therefore of the considered opinion that the learned Sessions Judge has failed to discharge the obligation of applying his mind fairly and objectively, and has also denied the petitioner an opportunity to be heard before effecting his transfer. The impugned order has thus resulted in serious prejudice to the petitioner, who as an under-trial prisoner retains his right to fair procedure.



Accordingly, the order dated 05.08.2025 directing the transfer of the petitioner from Bengaluru Central Prison to Belagavi Central Prison is unsustainable in law. The petitioner is entitled to be re-transferred to Bengaluru Central Prison.

11. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

(i) The petition is ***allowed***;

(ii) The impugned order dated 05.08.2025 passed in Special Case No.706/2023 pending on the file of the learned XLIX Additional City Civil and Sessions Judge, Bengaluru at Annexure-A stands quashed;

(iii) Respondents are hereby directed to re-transfer petitioner to Bengaluru Central Prison forthwith.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
[REESHAN THAJUDDIN SHEIKH VS. STATE OF KARNATAKA AND
OTHERS]

11.11.2025

(VIDEO CONFERENCING)

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER ON 'BEING SPOKEN TO'

After disposal of the petition, the learned counsel appearing for the National Investigation Agency (NIA) orally moved the matter, contending that the present petition itself is not maintainable on two counts: firstly, for non-joinder of a necessary party, namely the NIA; and secondly, that the proper remedy available to the petitioner is by way of an appeal under Section 21 of the National Investigation Agency Act, 2008 before the Division Bench, and therefore, the present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is not maintainable.

2. Having heard the learned senior counsel for the petitioner and the learned counsel appearing for the NIA, the short question that arises for consideration is whether the NIA



is a necessary party to the proceedings in the facts and circumstances of the present case.

3. It is not in dispute that the Chief Superintendent of Central Prisons, Bengaluru, submitted a requisition seeking transfer of certain undertrial prisoners to various central prisons across the State on security considerations. Pursuant to the said requisition, the learned City Civil and Sessions Judge, Bengaluru, passed the impugned order directing the transfer of accused Nos. 2 to 4 to the Central Prison, Belagavi; accused Nos. 5 and 6 to the Central Prison, Kalaburagi; accused Nos. 7 and 8 to the Central Prison, Vijayapura; accused Nos. 9 and 10 to the Central Prison, Shivamogga; and accused Nos. 11 and 12 to the Central Prison, Mysuru. The petitioner herein, who is arrayed as accused No. 4 in the sessions case, has been transferred to the Central Prison, Belagavi, pursuant to the said order.

4. It is pertinent to note that the impugned order is not one passed under the provisions of the Unlawful Activities (Prevention) Act, 1967 (UAPA). On the contrary, the entire process emanates from a requisition moved under the



provisions of the Prisons Act, 1894, and the Karnataka Prison Rules, addressing administrative and security concerns. The learned Sessions Judge, before whom the criminal proceedings are pending, has exercised jurisdiction in this regard solely on the administrative and security aspects as requisitioned by the prison authorities. Therefore, the role of the NIA as the investigating agency under the UAPA does not render it a necessary or proper party to the present proceedings, which arise out of an administrative order under the Prisons Act. The contention of non-joinder of a necessary party is, therefore, misconceived and unsustainable.

5. Furthermore, since the impugned order is passed under the provisions of the Prisons Act and not under the NIA Act or the UAPA, the contention that the petitioner's only remedy lies by way of an appeal under Section 21 of the NIA Act before the Division Bench cannot be accepted. The remedy under Section 21 is confined to orders passed by Special Courts or Sessions Courts under the NIA Act or the UAPA. The order impugned in the present case being administrative in nature and passed under the Prisons Act, the petitioner is well within



his right to invoke the inherent jurisdiction of this Court under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

6. The reliance placed by the learned counsel for the NIA on the judgment in ***Mohammed Kaleem Ahmed and Others v. National Investigating Agency, Ministry of Home Affairs and another [2025 SCC Online Kar 11864]*** is misplaced and does not advance the contention of the respondent agency, since the said judgment pertains to orders passed in the exercise of powers under the NIA Act, whereas the present case is founded on a distinct statutory framework altogether.

7. In light of the foregoing discussion, this Court finds no merit in the oral submissions advanced by the learned counsel for the NIA. The impugned order having already been examined and disposed of on merits, there is no ground to recall or reopen the same. Accordingly, the oral request made by the NIA stands rejected, and no further orders are warranted.

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