IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL PETITION NO.7236 OF 2020

BETWEEN:

Sri. Venkatesh @ Thirupathi
S/o. Hanumanthappa,
Aged about 41 years,
R/o. Nadampalli, Near Vyapanapalli,
Krishnagiri Taluk & District
Tamilnadu-635001.

…Petitioner

(By Sri. M.R.Nanjunda Gowda, Advocate)

AND:

State of Karnataka by
Marikuppam Police,
Kolar District,
Represented by
State Public Prosecutor,
High Court of Karnataka,
Bengaluru-560001.

... Respondent

(By Sri. B.J.Rohith, HCGP)

This Criminal Petition is filed under Section 439 Cr.P.C. praying to enlarge the petitioner on bail in Cr.No.46/2020 of Marikuppam Police Station, K.G.F. for the offence punishable under Sections 20(B)(ii)(C) of NDPS Act.

This Criminal Petition coming on for orders, this day, the Court made the following:

ORDER

Heard both sides.

2. The petitioner is accused no.11 in FIR No.46/2020 registered by the respondent police for the offence punishable under Section 20(B)(ii)(C) of NDPS Act. On 8.9.2020, police constable by name V. Mahendra Kumar and another police constable by name Chetan Kumar had been deployed for arresting the accused in connection with Cr.No.52/2020. When they were patrolling, they received information at 11.30 a.m. that two persons viz., Joseph and Purocchi Kumar were involved in selling ganja and that ganja had also been stored illegally in the house of Purocchi Kumar They passed on the information to the Station House Officer. Thereafter raid was conducted. The police recovered 186.650 grams of ganja from the house of Purocchi Kumar. They were arrested and when they were interrogated they revealed the names of accused no.4 and 6. Accused no.4

and 6 were arrested on 8.10.2020 and they in turn revealed the name of the petitioner and thus the petitioner was secured by the police on body warrant.

3. Learned counsel for the petitioner argues that the petitioner has been implicated on the basis of confession statement made by accused no.4 and 6, it is not admissible. There is no recovery from the petitioner. The involvement of the petitioner is not at all forthcoming. Admittedly recovery was from accused no.2. Therefore in these circumstance petitioner's involvement in commission of crime is doubtful. He is entitled to be released on bail. Learned Government Pleader opposes the petition by submitting that the petitioner was the person who was supplying ganja to the other accused for the purpose of sale. Therefore bail cannot be granted.

4. It is not in dispute that accused no.4 and 6 took the name of the petitioner when they gave their voluntary statements and the petitioner was secured under body warrant. There is no recovery from the petitioner. Recovery

was actually from accused no.2. Merely because accused no.4 and 6 revealed the name of the petitioner, unless the prosecution provides proof in that regard, his involvement in commission of crime cannot be inferred at this stage. Therefore I do not find prima facie materials as against the petitioner. He may be admitted to bail. Hence the following:

ORDER

i. Petition is allowed.

ii. The petitioner shall be released on bail on obtaining from him a bond for Rs.2,00,000/- (Rupees Two Lakh only) and providing two sureties for the likesum to the satisfaction of the trial court.

The petitioner is subjected to the following conditions:

a. He shall not threaten the witnesses and destroy the evidence in whatsoever manner.

b. He shall regularly appear before the trial court till conclusion of trial.

c. Till conclusion of trial he shall mark his attendance in the respondent – police

station once in a week, on first Sunday between 9.00 a.m. and 12.00 noon.

Sd/-
JUDGE

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