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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.OP.No.14494 of 2022

Varadaraju

..Petitioner/A3

Vs.

State Represented by
The Inspector of Police,
G-5, Secretariat Colony Police Station,
Chennai

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail pending investigation in Crime No.64 of 2022 on the file of the respondent police.

For Petitioner : M/s.Mamta Pandey

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested on 07.03.2022 and remanded to judicial custody on 08.03.2022 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 in crime No.64 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that based on the secret information received by the respondent police on 07.03.2022 at 16.15 hrs Viz. One Senthilkumar, Inspector of Police, when he was in police station, Mr. Sivagnanam, Sub Inspector of Police has given 57 report stating that one Prithiviraj and Varadaraju along with the case property, 62 kgs of Ganja were travelling at New Avadi Road, Aspiran Garden Junction at about 14.00 hrs. On information, the police party along with Sub Inspector of Police, went to the scene of occurrence and they found one vehicle/Eicher bearing Registration No.TN 07 AY 2779 and the police intercepted the vehicle. A1/Deva @ Ramesh absconded from the scene of occurrence and two other persons Prithiviraj/A2 and Varadaraju/A3/petitioner herein were sitting in the



vehicle. The police have intercepted them and seized 62 kgs of Ganja from them. After the statement of A2, the respondent police has arrested the petitioner/A3.

3. There are totally three accused in this case, in which the petitioner is arrayed as A3. Even according to the case of the prosecution, A2 is the cleaner and A3 is the driver of the vehicle owned by A1 Viz., Eicher bearing Registration No.TN 07 AY 2779. Further, the case of the prosecution is that, when the police personnels intercepted the vehicle, A1 absconded from the scene of occurrence, two others Viz., A2 and A3 were present inside the vehicle and the respondent police found contraband weighing 62 kilograms in the lorry. After the confession of A2, police arrested the petitioner and also followed the mandatory provisions as contemplated under the Act.

4. The learned Counsel for the petitioner pointed out that the seizure mahazar shows only A1 name in the column from whom it was seized. The petitioner's name was not found in the seizure mahazar except in the confession of A2.

5. Even according to the prosecution, entire contraband was seized from A1's lorry, whereas the learned counsel appearing for the petitioner also produced an Order passed by the Principal Special Court Under EC & NDPS Act, Chennai in Crl.M.P.No.1557 of 2022 dated 04.05.2022, in which the original owner of the lorry is one Anandavelu, who filed a petition for return of property in Crime No.64 of 2022. It was considered and Eicher vehicle bearing Registration No.TN 07 AY 2779 was returned in favour of the original owner Anandavelu. Whereas, as per the case of the prosecution, A1 is the owner of the lorry and A2 & A3 were working under A1. He is also having two godowns in which the contraband was kept for sales in the local market. Therefore, two versions of prosecution are seems to be false, since lorry was owned by one Anandavelu. The petitioner and A2 are working under the said Anandavelu. That apart, if at all A1 escaped from the lorry, when the said vehicle was intercepted by the said police personnel, the petitioner and the cleaner were only available in the lorry. However, the petitioner's name is not found in the seizure mahazar.

6. Therefore, the petitioner made out the prima-facie case to satisfy the twin condition as contemplated under Section 37 of NDPS Act and also considering the period of incarceration from the date of his arrest, this Court is inclined to grant bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two blood related sureties, each for a like sum to the satisfaction of the learned II Metropolitan Magistrate Egmore, Chennai and on further conditions that:-



[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

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[b] the petitioner shall report before the respondent police daily at 10.30 a.m. and 05.30 p.m., until further orders.

[d] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

23/06/2022

This order, on being produced, be punctually observed and carried into execution by all concerned
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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.II, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

4 INSPECTOR OF POLICE,
G-5, SECRETARIAT COLONY POLICE STATION,
CHENNAI



5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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+1 CC to M/S MAMTA PANDEY Advocate on payment of necessary
charges SR.NO. 9785

CRL OP.14494/2022

Date :23/06/2022

RW-23/06/2022