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Crl.OP.No.26184 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM

THE HON'BLE MR. JUSTICE M. NIRMAL KUMAR

Crl.OP.No.26184 of 2022

V.Venkatesan @ Venkatesh

... Petitioner

Vs.

State rep. By
The Inspector of Police,
Tindivanam Police Station,
Villupuram District.
(Crime No.374 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in Crime
No.374 of 2022 on the file of the respondent police.

For Petitioner : Mr.S.Sriram for
Mr.K.Govi Ganesan

For Respondent : Mr.C.E.Pratap,
Government Advocate (crl.side),



Crl.OP.No.26184 of 2022

WEB COPY

ORDER

The petitioner, who was arrested and remanded to judicial custody on 06.10.2022 for the offences punishable under Sections 328 and 20(b)(ii)(A) of NDPS Act, 1985 in Crime No.374 of 2022 on the file of respondent police, seeks bail.

2. The case of the prosecution is that on 02.10.2022 at 12.00 hrs., the respondent police received secret information about the sale of Ganja and Tapentadol Hydrochloride Tablets. On information, the respondent police arrived at the spot and found 6 unknown persons were standing near “HONDA SHINE” two wheeler bearing Registration No.TN 16 D 1949. On seeing the police, the accused attempted to escape. However, the respondent police caught four accused. During the enquiry, it came to know that A1, A2, A3 & A4 and 2 other accused were escaped from that place were present. On searching the said two wheeler, they found 1) Tapentadol Hydrochloride Tab-100 MG-10 box 10 tablets totally 100 tablets, 2) Insulin Syringe – 5 nos, 3) Ganja weighing 50 grams and 4) Non Pyrogenic Sterile 100 ml – 3 bottles. Immediately, the respondent police arrested A1 to A4 and recorded the



Crl.OP.No.26184 of 2022

confession statement disclosing that they have bought the said contraband from A6. The respondent police seized the contraband and the two wheeler. The allegation against the petitioner is that A5 & A6 purchased the drugs from the petitioner/A7, who is working in Yogi Pharmacy, Chengalpattu. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is running a pharmacy in the name and style of Yogi Pharmacy at Chengalpattu. Previously, A6 working as a representative in the petitioner's shop. Based on the confession of A6, the respondent police foisted a false case against the petitioner. The petitioner not present in the scene of occurrence and he is no way connected with the alleged offence. Therefore, he prays for grant of bail to the petitioner.

4. The respondent filed a detailed counter.

5. The learned Government Advocate (crl.side) appearing for the respondent would submit that on 02.10.2022, A1 to A6 are found to be in



Crl.OP.No.26184 of 2022

illegal possession of 1) Tapentadol Hydrochloride Tab-100 MG-10 box 10 tablets totally 100 tablets, 2) Insuline Syringe – 5 nos, 3) Ganja wieghing 50 grams and 4) Non Pyrogenic Sterile 100 ml – 3 bottles in the two wheeler respectively. During the course of investigation, it is found that the petitioner/A7 is the dealer of the drugs and he is the person, who sold the drugs to A5 & A6. The contraband has been recovered and produced before the learned Judicial Magistrate No.I, Tindivanam on 04.10.2022 and the same was taken on file in vide C.P.No.211 of 2022. In this case, totally 5 witnesses so far examined. A6 was arrested on 04.10.2022, given a statement that the contraband was procured from A7, who is working in Yogi Pharmacy, Chengalpattu. Thereafter, the petitioner/A7 was arrested on 06.10.2022. Further, the contraband viz., Tapentadol Hydrochloride Tablet is not mentioned in the list of scheduled NDPS Act and the investigation is almost over. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the materials available on record including the First Information Report.



Crl.OP.No.26184 of 2022

WEB COPY

6. Taking into consideration of the fact that the contraband viz., Tapentadol Hydrochloride Tablet is not mentioned in the list of scheduled NDPS Act and also not of commercial quantity, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.1, Tindivanam** 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;

[b] the petitioner shall report before the respondent Police daily at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;



Crl.OP.No.26184 of 2022

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] 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]**;

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

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WEB COPY



Crl.OP.No.26184 of 2022

To

1. The learned Judicial Magistrate No.1, Tindivanam
- 2.The Inspector of Police,
Tindivanam Police Station,
Villupuram District.
3. The Sub Jail,
Tindivanam.
4. The Public Prosecutor,
High Court of Madras.



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Crl.OP.No.26184 of 2022

M. NIRMAL KUMAR,J.

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Crl.O.P.No.26184 of 2022

08.11.2022