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Crl.O.P.No.7375 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2023

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THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.7375 of 2023

Harihara Subramanian

... Petitioner

Vs.

The State represented by,
The Assistant Commissioner of Police,
CCB Branch II EDF - III,
Vepery, Chennai.

(Crime No.02 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.02 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.P.M.Bakthavatsalam

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



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ORDER

(This case has been heard through Video Conferencing)

The petitioner, who was arrested and remanded to Judicial custody on 20.02.2023, for the offence punishable under Sections 409, 420, 465, 467, 468 & 471 r/w 120 B of IPC, in Crime No.02 of 2023, registered on the file of the respondent, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant, Dr.Hugo A Turcios Flores, is that she is the authorised signatory of Turcios Medical Supply and Services, LLC, a company incorporated under the laws of United States of America, which is engaged in the business of procurement and supply of medicinal drugs from various authorized vendors, manufacturers and other authorized distributors, throughout the world and her company has placed the purchase orders with the accused company for supply of 2000 vials of Tocilizumab and that they have also paid an amount of USD 750,000 and an additional sum of USD 15,000 towards shipping charges. Further, on the directions of the de-facto complainant, 2000 vials of Tocilizumab 400 mg/20 ml were supplied by the accused and on receipt of



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the same, it was found that the accused had sent the defective and spurious drugs which are unsuitable for application in the human body. Thereby, the accused had cheated the de-facto complainant and by this fraudulent act of sending spurious drugs, they have also committed serious acts of cross border and international ramification touching upon the diplomatic relationship between the countries. Hence the case.

3. Learned Counsel for the petitioner submitted that the petitioner is an innocent person, who is working as a General Manager in M/s.Murugappa Wholesale Suppliers/A1, a company engaged in the supply of pharmaceutical drugs, and he has been falsely implicated in this case. He further submitted that the petitioner's company has obtained necessary licences from various statutory authorities in the Central as well as in the State Government. He also submitted that the company had purchased the medicinal drug bearing batch number B3035B19 from one Roche Holding AG and they have been exported after following due procedures, however, due to non maintenance of temperature as required, the drugs have become defective during transit. He also submitted that the de-facto complainant had sent a letter dated 19.02.2022 to the CEO of the A1 Company stating that



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due to non maintenance of the temperature, the quality of the drugs have spoiled and in the very same letter, the de-facto complainant asked for replacement of 2000 units of Tocilizumab 400 mg/20 ml and other than that they have not made any allegations that the drugs were spurious. He also submitted that there had been some some mistake in maintaining the temperature during transit by the transporter due to which the medicines have got damaged, for which the petitioner cannot be held responsible and he reiterated that the drugs are not spurious. He also submitted that the entire case is borne out by documents and the petitioner is also prepared to furnish all the details to the respondent for proper investigation. He further submitted that for non return of amount and non-replacement of the drugs, a false complaint has been given, as if the petitioner company has supplied spurious drugs to the de-facto complainant. He further submitted that the petitioner is in custody from 20.02.2023 and he is ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner is the General Manager of the



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M/s.Murugappa Wholesale Suppliers/A1, a company engaged in the supply of pharmaceutical drugs. He further submitted that the de-facto complainant has placed the purchase orders of 2000 vials of Tocilizumab 400 mg/20 ml and for which, they have also paid an amount of USD 750,000 and an additional sum of USD 15,000 towards shipping charges. He further submitted the accused have sent a spurious drugs and they have cheated the de-facto complainant and the investigation in this case is pending. Hence, he opposed for grant of bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record including the typed set of papers filed by the petitioner.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain condition.



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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.I, Alandur, 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;

[b] the petitioner, within one week of coming out on bail shall surrender his passport before the Court concerned;

[c] the petitioner shall report before the respondent Police, everyday at 10.30 a.m. for a period of two weeks and thereafter, on every Saturday at 10.30 a.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



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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 abscond, a fresh FIR can be registered under Section 229A IPC.

11.04.2023

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To

1. The Judicial Magistrate No.I,
Alandur, Chennai.
2. The Assistant Commissioner of Police,
CCB Branch II EDF - III,
Vepery, Chennai.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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