



Crl.OP(MD)No.12974 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 27/09/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)Nos.12974 and 15588 of 2023

Madhankumar

... Petitioner/ Accused 1  
in Crl.OP(MD)No.12974 of 2023

Mohammed Abu

... Petitioner/ Accsed 2  
in Crl.OP(MD)No.15588 of 2023

Vs.

State rep. by  
The Inspector of Police,  
Karur Town Police Station,  
Karur District.  
(Crime No.489 of 2022)

... Respondent/ Complainant  
(in both cases)

For Petitioner : Mr.C.KARTHIKEYAN, Advocate  
(in both cases)

For Respondent : Mr.S.RAVI  
(in both cases) Additional Public Prosecutor

PETITIONS FOR BAIL Under Sec.439 of Cr.P.C.

COMMON PRAYER:-For Bail in Crime No.489 of 2022 on the file of the Respondent Police.

COMMON ORDER: The Court made the following order:-

The petitioners/A1 and A2, who were arrested and remanded to judicial



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custody, on 09/07/2022 for the offences under sections 8(C), 22(C), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.489 of 2022 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on receipt of the secrete information on 09/07/2022 at about 07.45 am, the respondent police along with team of police party went to Karur Vanjamman Kovil near Amaravathi River Bed and found the accused persons in possession of the contraband viz.,

1.NRX Tramadol Hydrochloride Injection-2ml, each 5 bottles, contains 6 pockets  
(6\*5=30)

2.Diclofenc Sodium Injection Raligesic-1ml, each 5 bottles, contains 1 pocket  
(1\*5=5)

3.Tapentadol Tablets Tapedac- 100mg-each 10 tablets, contains 4 pockets  
(4\*10=40)

4.NRX Alprazolam Tablets 05.mg- each 15 tablets, contains 4 pockets, in which 2 pockets (15\*2=30) another one pocket contains 10 tablets, Nitrovet-10,

5.Nitrazepan Tables IP each 15 three pockets 3\*15=45.

6.Dispo Van Single Use Hypodermic Syringe 3ml-2 Above said contraband were seized after taking samples.

Thereafter, A2 given a confession statement through which they recovered 2 tablets



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(Nitravet-10, Nitrazepan Tablets IP each 15 (two pockets 2\*15-30) and the same were seized. Based upon that, further process was undertaken and a case in Crime No.489 of 2023 was registered as stated above.

3. Seeking bail, the petitioners are before this court by filing separate petitions.

4. Heard both sides.

5. An elaborate argument has been advanced by the learned counsel appearing for the petitioners impressing upon the court that the tablets that have been seized will not come under the category of commercial quantity. He would also rely upon the judgment of this court reported in the case of Mohamed Ali and another Vs. The State rep, by the Inspector of Police, Kanyakumari district and another (2017-1-L.W. (Crl.)842).

6. Per contra, the learned Additional Public Prosecutor would submit that the position is now more or less well settled in view of the judgment of the Hon'ble Supreme Court in the case of Hira Singh and others Vs. Union of India (UOI) and others [(2020)20 SCC 272]. According to him, purity test cannot be taken into account to separate the psychotropic substance in the mixture or in the composition.

7. Now the learned counsel appearing for the petitioners would submit that when there is two or more chemical mixture, the composition is not deciding factor by the quantum of psychotropic substance and not the entire mixture. The



correctness of these two contra views have to be addressed by this court.

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8.For addressing this point, let us straightaway go to the letter written by the Assistant Director of Drugs Control, Trichy East Zone, Trichy-18 to the Inspector of Police Karur. Wherein he has stated that the following drugs were received from the manufacturer and Distributors.

- 1.Tramadol Hydrochloride injunction (Tramedex)
- 2.Diclofenac sodium inj(Raligesic)
- 3.Tapentadol tablets (Tapedac 100 mg)
- 4.Alprazolam tablets (PO.5 Mg (Becalm 0.5)
- 5.Nitazepam Tablets IP (Nitravet 10)

9.He has also further stated that in Thiruvermbur Range, M/s.Sri PLA Subbu Agencies, No.21, 1<sup>st</sup> Floor Benwells Road, Cantonment, Trichy-01 purchased 15 strips of Nitravet 10 Mg Tables from M/s.PL A Pharmaceuticals, Karur and sold to 5 different retails shops in Trichy District with sale bill. So far as Karur District is concerned, it was stated that there was no distribution of drugs to retails and wholesale pertaining to Karur District. So, this shows that without proper purchase vouchers, the above said tablets were found in possession of the accused during raid. The petitioners are bound to explain the source from which, the above said tables were purchased.



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10. So, the first violation is the provisions of Drugs and Cosmetics Act, whether alteration report has been submitted is not available on record. We need not concentrate much upon that since the competent authority may undertake the above said process.

11. Now let us go to the report submitted by the Forensic Science Department. They analyze the following:-

Note:-

1. Tramadol is an opioid analgesic and it is covered under Narcotic Drugs and Psychotropic Substances Act, 1985.

2. Diclofenace is a non steroidal anti-inflammatory drug (NSAID) and it is not covered under Narcotic Drugs and Psychotropic Substances Act, 1985.

3. Tapentadol is an opioid analgesic and it is not covered under Narcotic Drugs and Psychotropic Substances Act, 1985.

4. Alprazolam & Nitrazepam belong to Benzodiazepine group of drugs and both are covered under Narcotic Drugs and Psychotropic Substances Act, 1985.

5. The items were numbered in this laboratory.

6. All the samples in Item No-II to Item No.VII were



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completed used up in analysis.

7.This report may be used as evidence in any inquiry, trial or other proceedings as per Sec.293 CrPC.

8.Result relates only to the items examined.

9.Report shall not be reproduced except in full, without the written approval of the Director, Forensic Sciences Department, Chennai.

12.From the above said report, it is seen that among the Drugs sent for analysis, items 1 - 4 are found to be banned substance under the provisions of the NDPS Act. So, prima facie, it is seen that the above two substances are banned and prohibited.

13.So, I find no reason to entertain these petitions. Accordingly, both criminal original petitions are dismissed.

sd/-  
27/09/2023

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/10/2023  
Sub-Assistant Registrar (C.S. )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

ER  
TO

1 THE SUPERINTENDENT  
CENTRAL PRISON, TRICHY



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2 THE INSPECTOR OF POLICE,  
KARUR TOWN POLICE STATION,  
KARUR DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

ORDER  
IN  
Crl.OP(MD)Nos.12974 and 15588 of 2023  
Date :27/09/2023

SA/VRS/SAR. /31.10.2023/7P/4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.