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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/02/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.16023 of 2022

Sundararajan @ Sundararaj

... Petitioner/Accused No.4

Vs

State Rep.by
The Inspector of Police,
Karur Town Police Station,
Karur District.
in Crime No.489/2022.

... Respondent/Complainant

For Petitioner : M/s.Ramanathan AN, Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

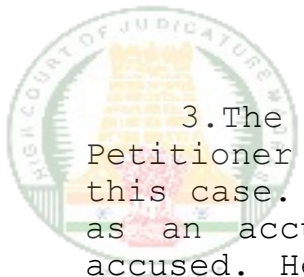
PRAYER :-

For Anticipatory Bail in Crime No.489/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A4, who apprehends arrest at the hands of the respondent police for the offences punishable 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, seeks anticipatory bail.

2.The case of the prosecution is that on receiving a secret information the respondent police had intercepted and conducted search on A1 and A2, near, Vanchiyampan Temple area and at that time, the accused herein were illegally found in possession of NRX Tramadol Hydrochloride injection 2 ML, Diclofenac Sodium Injection Raligesic-1ML, Tapenntadol Tablets Tapedac - 100 mg. NRX Alprazolam Tablets I.P.0.5 Mg., Nitrvet - 10 Nitrazepam Tablets IP, Dispo Van single Use Hypodermic Syringe - 3L. Hence, the complaint.



3. The learned Counsel for the Petitioner would submit the Petitioner is an innocent and he has been falsely implicated in this case. He further submitted that he has been roped in this case as an accused No.4 based on the confession given by the other accused. He further contended that the petitioner is working as a Staff and the other accused have purchased the above said substances and the recovery has also been made from the other accused. He further submitted that only for statistical purpose the present case has been registered and the petitioner herein was arrayed as accused and thereby, he seeks anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the the respondent would submit that in the guise of running a medical store, the petitioner has been supplying the psychotropic substances to the several persons including students. He further submitted that the documents relating to the purchase and sale of drugs by wholesalers to the petitioner and other accused and the further sale by them have to be looked into and the respondents have to recover the documents relating to the same. He further submitted that the investigation of the case is in initial stage and hence, the custodial interrogation of the petitioner is very much necessary to recover the said documents. He further submitted that the Hon'ble Apex Court had in several cases held that those persons who are dealing in narcotics drugs are instrumental in causing death or in inflicting deathblow to a number of innocent young victims and causes deleterious effects and a deadly impact on the society. Further in support of his contention, the learned Additional Public Prosecutor relied on the following judgements:

- a) State of Kerala V. Rajesh reported in 2020-SAR-(Cri)-326
- b) Union Of India V. Ram Samujh and others reported in 1999-9-SCC-129
- c) Durand Didier .V. Chief Secretary, Union Territory of Goa reported in 1990-1-SCC-95.

5. He would also submit that in matters dealing with cases of anticipatory bail in narcotic substances, it is imperative for the High Court to exercise its discretion judicially and cautiously, and thereby he would pray for dismissal of the anticipatory bail petition.

6. Heard. Perused the materials available on record including the First Information Report.

7. It is the case, where the petitioner was illegally found in possession of huge quantity of drugs and the petitioner had indulged in the trade of Narcotics Drugs and Psychotropic substances to several victims and their acts causes deadly impact of the society.

8. Now coming to the judgment of the Hon'ble Supreme Court in the case of **State of Kerala V. Rajesh** reported in **2020-SAR-(Cri)-**



326, the Hon'ble Supreme Court has laid down broad parameters to be followed while considering the application for bail moved by the accused involved in offences under NDPS Act.

9. Further in **Union Of India V. Ram Samujh and others** reported in **1999-9-SCC-129**, it has been held that:

"It is to be borne in mind that the aforesaid legislative mandate is required to be adhered to and followed. It should be borne in mind that in a murder case, the accused commits murder of one or two persons, while those persons, who are dealing in narcotic drugs are instrumental in causing death or in inflicting deathblow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and / or dealing in intoxicants clandestinely. Reason may be large stake and illegal profit involved."

10. In **Durand Didier .V. Chief Secretary, Union Territory of Goa** reported in **1990-1-SCC-95** it has been held that:

"With deep concern, we may point out that the organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addicting among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as a whole, parliament in its wisdom, has made effective provisions by introducing this Act, 91 of 1985, specifying mandatory minimum imprisonment and fine".

11. This Court is able to see that in this case the psychotropic substances has been sold to the public without any proper prescription. The petitioner has involved in the offence, which is grave in nature. Considering the nature of the offence and considering the quantum of contraband involved and also considering the directions of the Hon'ble Supreme Court, this Court is not inclined to grant anticipatory bail to the petitioner.



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12. Hence, this Petition is dismissed.

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

SJI/CM

TO

1. The Inspector of Police,
Karur Town Police Station,
Karur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER

IN

CRL OP(MD) No.16023 of 2022

Date :06/02/2023

RS/SAR.4(14.02.2023) 4P-3C