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Crl.O.P.Nos. 3370 & 4536 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.02.2024

PRONOUNCED ON : 06.03.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.Nos. 3370 & 4536 of 2024

Crl.O.P.No. 3370 of 2024

Rajaram

... Petitioner/
A-2

Vs.

The State represented by
The Inspector of Police
Kodungaiyur Poilce Station
Chennai.
(Cr.No. 742 of 2023).

... Respondent/Complainant

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in Cr.No. 742
of 2023 on the file of the respondent.

For Petitioner : Mr T.R.Prabhakaran

For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)



Crl.O.P.Nos. 3370 & 4536 of 2024

Crl.O.P.No. 4536 of 2024

Naresh Praveen @ Naresh

... Petitioner/
Accused

Vs.

The State Rep. by
The Inspector of Police
P-6 Kodungaiyur Poilce Station
Chennai.
(Cr.No. 742 of 2023).

... Respondent/Complainant

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending in Crime No. 742 of 2023 on
the file of the Inspector of Police, P-6, Kodungaiyur Police Station, Chennai
District.

For Petitioner : Mr. S.Chrishpinraj

For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)

COMMON ORDER

A-1 has filed Crl.O.P.No. 4536 of 2024 and A-2 has filed
Crl.O.P.No. 3370 of 2024, both in Crime No. 742 of 2023 registered under
Section 8(c) read with 22(c), 25 and 29(1) of the NDPS Act.



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2. The accused Nos. 1 & 2 had been remanded to judicial custody on 23.12.2023. It is the case of the prosecution that the respondent had received information about two persons selling Narcotic substances near Kodungaiyur Parvathi Nagar Bus Stop. This information was entered in the general diary and thereafter, the respondent had proceeded to that place and had taken in custody the two petitioners. They were found in possession of 80 strips of 15 tablets each of Notravet-10 (Nitrazepam tablets 1P-10 MG). This seizure was actually from the first accused. It was stated that the first accused would procure the same from courier service and hand it over to one Ajay of Maathur and Shaafi of Redhills, who had ordered the tablets online and couriered it to addresses in and around Kodungaiyur.

3. The learned counsels stated that the petitioners are innocent of the offences and sought bail.

4. It is also contended on behalf of the first accused that he had suffered a motor cycle accident on 24.02.2019 and had suffered serious injuries in his leg.



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5. A Counter affidavit had been filed on behalf of the respondent wherein it had been stated that the quantity of Nitravet tablets seized is commercial quantity since it is 1200 in number. It had also been stated that all formalities had been completed. It had been stated that the specific overt act as against the accused Nos. 3 and 4 who are both absconding is that they had forwarded the tablets through courier to addresses in and around Kodungaiyur. It is stated that the first accused had collected the tablets and was going along with the second accused to hand over the tablets to the accused Nos. 3 and 4.

6. The learned counsel for the petitioners stated that the Nitravet tablet is not a psychotropic substance. In this connection, the learned counsel placed reliance on the Judgment of a learned Single Judge of the ***Punjab and Haryana High Court in CRM.M.No. 9291 of 2017 dated 06.04.2017 [Rajinder Kumar Vs. State of Punjab]***, wherein it had been stated that a quantity 3000 Nitravet tablets (Nitrazepam) is not commercial in nature.

7. The learned counsel also placed reliance on a Judgment of a



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learned Single Judge of the *Himachal Pradesh High Court in Cr.MP(M).No. 1091 of 2017 [Kapil Garg Vs. State of Himachal Pradesh]*.

The learned Single Judge had stated that the weight of the Nitrovet tablets was 9.83 mg.

8. It is contended that if that weight is taken into consideration, then the quantity seized is non commercial in nature. It is therefore stated that the petitioners are entitled for bail.

9. I have carefully considered the arguments advanced.

10. The facts of the case will have to be expanded to examine the role of each one of the four accused. It is the specific case of the prosecution that the accused Nos. 3 and 4, who are absconding would place orders through courier for forwarding psychotropic substances and give fictitious addresses in an around Kodungaiyur as the place of delivery. The first accused had collected the contraband from the courier agency and with the second accused was proceeding to hand over the contraband it to the accused Nos. 3 and 4. Thus even though in the possession of the accused Nos. 1 and



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2, the contraband could be less than commercial but taking into consideration the overall picture, the entire operation involves importing of Narcotic substance through courier service and later handing them over to the accused Nos. 3 and 4 by the accused Nos. 1 and 2 herein. When an order is placed through courier service, naturally only less than commercial quantity would be placed to avoid a much larger parcel being couriered and creating suspicion. Each parcel would contain psychotropic substance of less than commercial value but they are a chain in a larger operation and therefore, the possession of quantity seized cannot be viewed in isolation. It is part of a larger network of purchasing psychotropic substances through courier service and distributing it in the open market. The accused Nos. 3 and 4 are still absconding.

11. The prosecution will have to establish a direct link between the accused Nos. 1 and 2 and the accused Nos. 3 and 4. When that link is established, the quantity of the contraband pales into insignificance. Nitrovet tablet is a psychotropic substance.



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12. In view of these reasons, I am not inclined to grant bail to the petitioners but give a direction to the respondent to endeavour to secure accused Nos. 3 and 4 so that they could also face trial.

13. This Petition stands dismissed.

06.03.2024

vsg

Index:Yes/No

Neutral Citation:Yes/No

Speaking order : Yes/No

To

1. The Inspector of Police
P-6 Kodungaiyur Poilce Station
Chennai.
2. The Central Prison, Puzhal-II, Chennai.
3. The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN, J.



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vsg

Pre Delivery Order made in
Crl.O.P.Nos. 3370 & 4536 of 2024

06.03.2024