



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

Crl.O.P.(MD) No.4801 of 2019

WEB COPY

1.Sajan Nath

2.Suresh Chand Balai .. Petitioners/Accused Nos.1 & 2

Vs.

The Inspector of Police,
NIB - CID Police Station,
Dindigul District.

Crime No.107 of 2018. .. Respondent/Complainant

Prayer: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to unnumbered bail petition of the petitioners filed on 04.03.2019 in S.R.No.1039 of the Principal Special Sessions Judge (NDPS Act), Madurai in Cr.M.P.No.-- of 2019 in Cr.No.107 of 2018 of the NIB CID, Dindigul and to set aside the return order made by the Principal Special Sessions Judge (NDPS Act) Madurai dated 05.03.2019 and consequently direct the Principal Special Sessions Judge (NDPS Act), Madurai for NDPS Cases to number and dispose of the same within a time stipulated that may be fixed by this Court.

For Petitioners	:	Mr.V.Angusamy
For Respondent	:	Mr.K.Suyambulinga Bharathi
		Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed against the returning of the petitioner's bail application filed under Section 167(2) Cr.P.C.

2.The grievance of the petitioners is that they are the accused in Crime No.107 of 2018 for the offence punishable under Section 8(c) r/w 20(b)(ii)(c) and 25 of the NDPS Act. According to them, final report has not been filed within the statutory period of 180 days. Therefore, they are entitled to default bail under Section 167(2) Cr.P.C., Hence, they filed an application, seeking for bail. The Principal Special Sessions Judge (NDPS) Act, Madurai, without even entertaining the application, returned the same saying that charge sheet has been filed on 14.02.2019. Hence, the present petition has been filed seeking the aforesaid relief.



3. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the respondent.

4. The respondent has filed a counter affidavit stating that the final report has been filed before the Court on 14.02.2019 within the statutory period and it was taken on file only on 05.03.2019. But the above fact has been disputed by the learned counsel for the petitioner.

5. On a perusal of the records it could be seen that the Sessions Judge even without taking the bail application on file, has simply returned the same saying that charge sheet has been filed.

6. The issue involved in this petition is as to whether the petitioners are entitled to get default bail under Section 167(2) Cr.P.C. or not. In the above circumstances, the learned Sessions Judge ought to have entertained the bail application and decided the issue on merit. But without doing so, the Sessions Judge has simply returned the bail application stating that charge sheet has been filed. Therefore, the order passed by the Principal Special Sessions Judge (NDPS) Act, Madurai in Cr.M.P.No.-- of 2019 in Cr.No.107 of 2018 is set aside and the Sessions Judge is directed to number the bail application and decide the same on merits and in accordance with law.

7. The Criminal Original Petition is disposed of accordingly.

Sd/-

Assistant Registrar (CS-

/ True Copy /

Sub Assistant Registrar (CS-I)

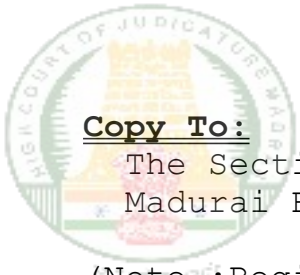
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To

1. The Principal Special Sessions Judge (NDPS) Act,
Madurai.

2. The Inspector of Police,
NIB - CID Police Station,
Dindigul District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**Copy To:**

The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai. **(2 Copies)**

(Note: Registry is directed to return the original
bail application to the petitioner forthwith).

+1 CC to M/s.V.ANGUSAMY, Advocate (SR-68737[F] dated 14/06/2019)

Cr1.O.P.(MD) No.4801 of 2019
13.06.2019

ES/17.06.2019/3P/7C