



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/02/2020

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.3538 of 2020

Venkatachalam @ Venkatesan

... Petitioner/Accused No.1

Vs

The Inspector of Police,
Athoor Police Station,
Thoothukudi District.
Crime No.137/2019

... Respondent/Complainant

For Petitioner : M/s.S.Mandhiralingeswaran,
Advocate.

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.137/2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

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

2. The petitioner is in custody 22.08.2019 for the offences under Sections 8(C) r/w. 20(b)(ii)(c), 29(i) and 25 of Narcotic Drugs and Psychotropic Substances Act, in Crime No.137 of 2019, on the file of the respondent police. Hence, he seeks bail.

3. The case involves 294 kgs of ganja. It is a commercial quantity. The petitioner's counsel contended that final report has not been filed within a period of 180 days and that therefore, the petitioner is entitled to statutory bail. Therefore, the case was adjourned to enable the respondent to get instructions.

4. Today when the matter was taken up for hearing, the learned Government Advocate (Crl. Side) submitted that the 180th day from the date of petitioner's arrest expired on 17.02.2020. But then, the



investigating officer filed Crl.M.P.No.532 of 2020 on 13.02.2020 itself seeking extension of time. It appears that the Special Court is yet to pass orders on the said petition. The learned Government Advocate (Crl. Side) would also draw my attention to the judgement of the Hon'ble Supreme Court reported in **[(2018) 4 SCC 405 Rambeer Shokeen V. State of NCT of Delhi]**, which is to the effect that when an application for extension of the period for filing charge sheet has been made by the learned Public Prosecutor, it should be disposed of first before passing order in the statutory bail. In other words, hearing the statutory bail petition cannot precede the consideration of prayer for extension of period for filing charge sheet. In fact, this decision has been followed by this Court in Crl.R.C.No.660 of 2018 dated 01.02.2019. Therefore, the learned Special Judge is directed to pass order in Crl.M.P.No.532 of 2020 forthwith and without any delay.

5. It is open to the petitioner herein to apply for bail thereafter.

6. With these directions, this criminal original petition stands dismissed.

sd/-

27/02/2020

/ TRUE COPY /

/ /2020

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

TO

1. THE PRINCIPAL SPECIAL JUDGE FOR EC & NDPS ACT CASES,
MADURAI.
2. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE,
ATHOOR POLICE STATION, THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.3538 of 2020

Date : 27/02/2020

MS/PN/SAR-3/27.02.2020/2P.5C