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Crl.R.C.No.1514 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No.1514 of 2022

Vadivunathan

... Petitioner

Vs.

The Inspector of Police,
H6, R.K.Nagar Police Station,
Chennai.

... Respondent

Prayer:

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C., to set aside the order dated 04.11.2022 passed in Crl.M.P.No.5448 of 2022 on the file of the Principal Special Court for NDPS Act Cases at Chennai and seeking to enlarge the petitioner on mandatory bail under Section 167(2) Cr.P.C., in Crime No.279 of 2022, pending on the file of the respondent.

For Petitioner : M/s.L.Srileka

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

WEB COPY This Criminal Revision Case has been filed to set aside the order dated 04.11.2022 passed in Crl.M.P.No.5448 of 2022 on the file of the Principal Special Court for NDPS Act Cases at Chennai and seeking to enlarge the petitioner on mandatory bail under Section 167(2) Cr.P.C., in Crime No.279 of 2022, pending on the file of the respondent.

2. The petitioner/accused filed petition in Crl.M.P.No.5448 of 2022, seeking bail, under Section 167(2) Cr.P.C., before the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai. The learned Special Judge, on being satisfied with the reasons stated by the prosecution, dismissed the petition. Aggrieved over the same, the petitioner has filed the present Criminal Revision Case before this Court.

3. Learned counsel for the petitioner submitted that the accused was arrested on 29.04.2022. The respondent police neither completed the investigation and nor filed charge sheet within the statutory period. The petitioner filed a petition seeking mandatory bail on 186th day, before that,



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the prosecution filed a petition under Section 36A(4) of NDPS Act on 174th day, for extension of time for investigation and the trial court neither granted extension of time nor dismissed the petition filed by the prosecution.

4. The matter is listed today to ascertain as to whether the petition under Section 36A(4) filed by the prosecution is still pending or disposed of by the trial court. Learned Additional Public Prosecutor submitted that the petition is still pending and also submitted that since the chemical analysis report yet to be received, they sent requisition letter to the Director of Forensic Department, Mylapore.

5. Though grant of bail is the discretionary power of the Court, but in the case of mandatory bail, this Court has no other option except to grant bail, when the statutory provisions have not been complied with. Non-receipt of the chemical analysis report from the Forensic Department cannot be the sole ground for delay in filing the charge sheet. Since the prosecution neither completed investigation nor filed the charge sheet



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within the stipulated period without any valid reason, the petitioner is entitled to get the relief under Section 167(2) Cr.P.C.,

6. Considering the above facts and circumstances of the case, this Court is inclined to allow this Criminal Revision Petition and grant mandatory bail to the petitioner.

7. Accordingly, the petitioner is directed to deposit a sum of Rs.5,00,000/- [Rupees Five Lakhs only] to the credit of Crime No.279 of 2022 before the Principal Special Court under EC & NDPS Act, Chennai, and on such deposit, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the Principal Special Court under EC & NDPS Act,, Chennai and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



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[b] the petitioner shall report before the trial court once in a week ie., every Monday at 10.30 a.m., until further orders.

[c] the petitioner shall deposit a sum of Rs.5,00,000/- [Rupees Five Lakhs only] to the credit of Crime No.279 of 2022 before the Principal Special Court under EC & NDPS Act,, Chennai, at the time of execution of bond.

[d] the final order in respect of the said deposit shall be passed by the learned trial Judge at conclusion of trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State**



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of Kerala [(2005)AIR SCW 5560].

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[h] If the accused thereafter abscond, a fresh FIR can be registered

under Section 229A IPC.

8. Accordingly, the Criminal Revision Petition is allowed.

29.11.2022

mfa

Index:yes/No

Internet:yes/No

Note: Issue Order Copy on 30.11.2022

To

1. The Special Judge,
Principal Special Court for NDPS Act Cases,
Chennai.
2. The Inspector of Police,
H6, R.K.Nagar Police Station,
Chennai.
3. The Public Prosecutor
High Court,
Chennai.

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P.VELMURUGAN, J.

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