



WEB COPY



CrI.R.C.No.146 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.R.C.No.146 of 2023

Noorul Ameen

...

Petitioner

/vs/

The State

Rep.by Inspector of Police,
B-1 North Beach Police Station,
Chennai.

...

Respondent

PRAYER : Criminal Revision Case has been filed under Section 397 & 401 Cr.P.C. to call for the entire records in connection with the order passed in CrI.M.P.No.6059 of 2022 on 05.12.2022 by the learned Principal Special Judge, NDPS Court, Chennai and set aside the same as illegal and consequently enlarge the petitioner on statutory bail under Section 167(2) of Cr.P.C., in Cr.No.190 of 2022 on the file of the respondent police.

For Petitioner

...

Mr.V.Ramamoorthy

For Respondent

...

Mr.V.Meganathan
Government Advocate (CrI.side)

ORDER

The Criminal Revision Case has been filed challenging the impugned order dated 05.12.2022 passed in CrI.M.P.No.6059 of 2022 by



Crl.R.C.No.146 of 2023

the Principal Special Judge, NDPS Court, Chennai.

WEB COPY

2.The learned counsel for the petitioner contended that the respondent police registered a case in Crime No.190 of 2022 against the petitioner along with other accused. The petitioner is arrayed as the sixth accused, for the offence punishable under Sections 9A, 22(c) and 25A of the Narcotic Drugs & Psychotropic Substances Act, 1985. In this regard, the respondent police arrested the petitioner and remanded him to Judicial custody on 01.06.2022. The respondent police have to file a final report within 180 days of his arrest, but they have failed to file a final report. Therefore, the petitioner filed a statutory bail petition in Crl.M.P.No.6059 of 2022 under Section 167 (2) Cr.P.C. before the Principal Special Court under EC & NDPS Act. The said petition was dismissed by the trial Court on 05.12.2022 on the sole ground that the respondent police had filed a petition on the 178th day i.e. 25.11.2022 under Section 36A(4) of the NDPS Act, seeking for an extension of time for filing the final report in this case and the same is pending before the Court. Subsequently, the Trial Court dismissed the petition seeking extension of time for filing the final report



Crl.R.C.No.146 of 2023

on 04.01.2023. Under these circumstances, the petitioner is entitled to a statutory bail. Hence, the present criminal revision case.

3.The learned Government Advocate (Crl. Side) fairly concedes that the petition filed for extension of time for filing the final report by the respondent police in Crl.M.P.No.6036 of 2022 was dismissed by the trial Court on 04.01.2023.

4.I have considered the submissions on either side and perused the materials available on record.

5.On a perusal of the records, the fact reveals that the respondent police registered a case against this petitioner along with others in Crime No.190 of 2022 for the offences punishable under Sections 9A, 22(C) and 25A of the Narcotic Drugs & Psychotropic Substances Act, 1985. Admittedly, the petitioner was arrested and remanded to judicial custody on 01.06.2022 and the respondent police ought to have filed the final report within a period of 180 days, but they have failed to file the same.



Crl.R.C.No.146 of 2023

Therefore, the petitioner / A6 has filed a statutory bail petition, which was also dismissed by the trial Court on 05.12.2022 on the ground that the respondent police filed a petition in Crl.M.P.No.6036 of 2022 on 25.11.2022 for extension of time for filing the final report, which is unsustainable in the eye of law in view of the principle laid down by the Hon'ble Supreme Court in *Sanjay Dutt Vs. State through C.B.I. Bombay (II)* reported in *(1994) 5 Supreme Court Cases 410* and *State of M.P. Vs. Rustam and others* reported in *1995 Supp (3) Supreme Court Cases 221*. Apart from this, the trial Court, subsequently on 04.01.2023, dismissed the petition filed by the respondent police for extension of time. Under these circumstances, the petitioner is entitled to a statutory bail.

6. Accordingly, the impugned order dated 05.12.2022 passed in Crl.M.P.No.6059 of 2022 by the learned Principal Special Judge, NDPS Court, Chennai, is set aside. Statutory Bail is granted to the petitioner. The petitioner is ordered to be released on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, before the learned Principal Special Court under EC & NDPS Act, Chennai



Crl.R.C.No.146 of 2023

600 104 on the following conditions;

WEB COPY

(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(c) the petitioner to appear before the trial Court on all hearing dates.

(d) the petitioner shall not abscond either during investigation or trial;

(e) 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 of Kerala [(2005) AIR SCW 5560]***; and;



Crl.R.C.No.146 of 2023

V.SIVAGNANAM ,J.

rpl

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

7. With the above directions, this Criminal Revision Case is allowed.

Index : Yes/No
Internet : Yes/No
rpl

30.01.2023

To

- 1.The learned Principal Special Judge
under EC & NDPS Act, Chennai.
- 2.Central Prison, Puzhal, Chennai
- 3.Inspector of Police,
B-1 North Beach Police Station,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.146 of 2023