



WEB COPY



Crl.R.C.No.170 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.170 of 2023

1.Olisakwu Chuks David

2.Biereonwu Moses

...

Petitioners

/vs/

The State

Rep.by Inspector of Police,

North Police Station, Tiruppur

Tiruppur District.

(Ref:X.No.1152/2022)

...

Respondent

PRAYER : Criminal Revision Case has been filed under Section 397 & 401 Cr.P.C. to call for the records and set aside the order passed in E-CMP No.237/2023 dated 05.01.2023 passed by the learned Judicial Magistrate No.I, Tiruppur and enlarge the petitioner on statutory bail.

For Petitioners

...

Mr.V.Vijayakumar

For Respondent

...

Mr.V.Meganathan

Government Advocate (Crl.side)

ORDER

The Criminal Revision Case has been filed challenging the impugned order dated 05.01.2023 passed in E-CMP No.237/2023 by the learned Judicial Magistrate No.I, Tiruppur.



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2. The case of the prosecution is that on 22.09.2022, the respondent Police during the routine vehicle checkup came to know that the petitioners herein alleged to be a foreigner are in India without valid visa as the visa period was completed. Hence the respondent police registered a case against the petitioners.

3.The learned counsel for the petitioners contended that the respondent police has registered a case in Crime No.1152/2022 against this petitioners for the offence punishable under Section 14 of the Foreigners Act, 1946. In this regard, the respondent police arrested the petitioners and remanded to Judicial custody on 23.09.2022. They are in custody for more than the statutory period. Hence, the petition under Section 167(2) of Cr.P.C in E-CMP.No.237 of 2023 filed by the petitioners seeking statutory bail. The Trial Court dismissed the petition in E-CMP.No.237 of 2023 on the ground that the Final Report is pending before the Court and the petitioners are not entitled to statutory bail. Hence, the present criminal revision case.



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4.The learned Government Advocate (Crl.side) for the respondent submitted that the Final Report was filed on 23.09.2022 and the same is taken on file in C.C.No.4 of 2023 by the learned Judicial Magistrate No.1, Tiruppur.

5.I have considered the submissions of the parties and perused the materials available on record.

6.On perusal of the records, the fact reveals that the respondent police registered a case against the petitioners in Crime No.1152 of 2022 for the offences punishable under Section 14 of the Foreigners Act, 1946. Admittedly, the petitioners were arrested and remanded to judicial custody on 23.09.2022. The petitioners filed a petition on 23.09.2022 under Section 167(2) of Cr.P.C. But the learned Magistrate dismissed the bail petition on the ground that the charge sheet has already been filed on the same day itself. The learned Magistrate dismissed the statutory bail petition only on the ground that the Final Report has been filed, but not assigned any reason on merit of the case. Since the Final Report has been filed within the



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statutory period as contemplated under Section 167(2) Cr.P.C., non mentioning of merit of other aspects will not vitiate the order.

7. Therefore, I find no infirmity in the order passed by the Trial Court. As such, this Court is inclined to dismiss the petition. Accordingly, this Criminal Original petition is dismissed.

Index : Yes/No
Internet : Yes/No
rpl

02.02.2023

To

- 1.The Judicial Magistrate No.I, Tiruppur
- 2.The Inspector of Police,
North Police Station, Tiruppur
Tiruppur District.
- 3.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM ,J.

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