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Crl.R.C.No.152 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.152 of 2023

V.Naasar

...

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 set aside the order passed in Crl.M.P.No.6142 of 2022 dated 07.12.2022 on the file of the Principal Special Court under EC & NDPS Act, Chennai and grant statutory bail to the petitioner.

For Petitioner

...

Mr.T.Saraganan

For Respondent

...

Mr.V.Meganathan

Government Advocate (Crl.side)

ORDER

The Criminal Revision Case has been filed challenging the impugned order dated 07.12.2022 passed in Crl.M.P.No.6142 of 2022 by the Principal Special Court under EC & NDPS Act, Chennai.



2.The learned counsel for the petitioner contended that the respondent police has registered a case in Crime No.190 of 2022 against this petitioner along with others, in which, the petitioner is the fifth accused, for the offences 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 to Judicial custody on 01.06.2022. In respect of the same, the respondent police have to file a final report within 180 days but they failed to file a final report. Therefore, the petitioner filed a statutory bail petition in Crl.M.P.No.6142 of 2022 under Section 167 (2) Cr.P.C. before the Principal Special Court under EC & NDPS Act. That petition was dismissed by the trial Court on 07.12.2022 on the ground that the respondent police had filed a petition on 178th day i.e. 25.11.2022 under Section 36A(4) of the NDPS Act for extension of time for filing a final report and the same is pending before this Court. Subsequently, the Trial Court dismissed the petition seeking extension of time for filing the final report on 04.01.2023. Under these circumstances, the petitioner is entitled to statutory bail. Hence, the present criminal revision case.



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3.The learned Government Advocate (Crl.side) conceded that the petition for extension of time for filing the final report filed 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 of the parties and perused the materials available on record.

5.On 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. Within a period of 180 days, the respondent police have to file a final report but failed to file a final report. Therefore, the petitioner/A5 filed a statutory bail petition that was dismissed by the trial Court on 07.12.2022 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



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for filing a final report, which is unsustainable, 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 statutory bail.

6. Accordingly, the impugned order dated 07.12.2022 passed in Crl.M.P.No.6142 of 2022 by the learned Principal Special Judge under EC & NDPS Act, Chennai, is set aside and Statutory Bail is granted to the petitioner and 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 for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, before the VII Metropolitan Magistrate, G.T.Court, Chennai on the following conditions;



(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;



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(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

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Internet : Yes/No

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To

1.The learned Principal Special Judge
NDPS Cases, Chennai.

2.The VII Metropolitan Magistrate,
G.T.Court, Chennai.

3.Superintendent, Puzhal Prison-II, Chennai.

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

5.The Public Prosecutor,
High Court, Madras.

V.SIVAGNANAM ,J.



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