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Crl.R.C.No.432 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.432 of 2023

Balakrishnan

...

Petitioner

/vs/

The State

Rep.by Inspector of Police,
D-1, Thirutani Police Station,
Thiruvallur District.
(Cr.No.380 of 2022)

...

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.1105 of 2023 dated 22.02.2023 on the file of the Principal Special Judge, Special Court under EC & NDPS Act, Chennai and grant statutory bail to the petitioner.

For Petitioner

...

Mr.T.S.Srinivasan

For Respondent

...

Mr.R.Vinothraja
Government Advocate (Crl.side)

ORDER

The Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.1105 of 2023 dated 22.02.2023 on the file of the



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Principal Special Judge, Special Court under EC & NDPS Act, Chennai
and grant statutory bail to the petitioner.

2.The learned counsel for the petitioner contended that the respondent police has registered a case in Crime No.380 of 2022 against this petitioner/accused, for the offences punishable under Sections 8(c) r/w. 20(b)(ii)(C) of the Narcotic Drugs & Psychotropic Substances Act, 1985 and Section 328 of IPC. In this regard, the respondent police arrested the petitioner and remanded him to Judicial custody on 21.08.2022. In respect of the same, the respondent police have to file a final report within 180 days i.e., on or before, but they failed to file a final report. Therefore, the petitioner filed a statutory bail petition in Crl.M.P.No.1105 of 2023 under Section 167 (2) Cr.P.C. before the Principal Special Judge, Special Court under EC & NDPS Act. That petition was dismissed by the trial Court on 22.02.2023 on the ground that the petition filed under Section 36A(4) of the NDPS Act for extension of time for filing a final report on 177th day i.e. 13.02.2023 is pending. Subsequently, the Trial Court dismissed the petition in Crl.MP.No.1105 of 2023 seeking statutory bail on 22.02.2023.



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Therefore, the learned counsel for the petitioner prays to grant statutory bail to the petitioner in the present criminal revision case.

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.983 of 2023 was pending before the trial Court.

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.380 of 2022 for the offences punishable under Sections 8(c) r/w. 20(b)(ii)(C) of the Narcotic Drugs & Psychotropic Substances Act, 1985 and Section 328 of IPC. Admittedly, the petitioner was arrested and remanded to judicial custody on 21.08.2022. Within a period of 180 days i.e., on or before, the respondent police have to file a final report, but failed



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to file a final report. Therefore, the petitioner/accused filed a statutory bail petition and the same was dismissed by the trial Court on 22.02.2023 on the ground that the respondent police filed a petition in Crl.M.P.No.983 of 2023 on 20.02.2023 for extension of time for filing a final report is pending, 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***. Under these circumstances, the petitioner is entitled to statutory bail.

6. Accordingly, the impugned order dated 22.02.2023 passed in Crl.M.P.No.1105 of 2023 by the learned Principal Special Judge, Special Court 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), before the learned Principal Special Judge, Special Court under EC & NDPS Act, 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;

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



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

Index : Yes/No
Internet : Yes/No
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20.03.2023

To

1.The Principal Special Judge,
Special Court under EC & NDPS Act, Chennai.

2.The Superintendent, Central Prison, Puzhal, Chennai.

3.D-1, Thirutani Police Station,
Thiruvallur District.
(Cr.No.380 of 2022)

4.The Public Prosecutor,
High Court, Madras.

V.SIVAGNANAM ,J.



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