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Crl.R.C.No.454 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.454 of 2023

Suresh

...

Petitioner

/vs/

The Inspector of Police,
D1-Thiruthani Police Station,
Tiruvallur

...

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.1075 of 2023 dated 22.02.2023 in Crime No.374 of 2022 by the learned principal Special Court under EC and NDPS Act, Chennai and to enlarge the petitioner on bail.

For Petitioner

...

Mr.K.Anand

For Respondent

...

Mr.R.Vinothraja

Government Advocate (Crl.side)

ORDER

The Criminal Revision Case has been filed challenging the impugned order dated 22.02.2023 passed in Crl.M.P.No.1075 of 2023 by the Principal Special Court under EC & NDPS Act, Chennai.



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2.The learned counsel for the petitioner contended that the respondent police has registered a case in Crime No.374/2022 against this petitioner for the offence punishable under Section 8(c) r/w. 20(b)(ii)(C) and 29(1) of NDPS Act and 328 of IPC. In this regard, the respondent police arrested the petitioner and remanded him to Judicial custody on 19.08.2022. 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.1075 of 2023 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 22.02.2023 on the ground that the petition in Crl.M.P.No.982 of 2023 filed under Section 36A(4) of the NDPS Act for extension of time for investigation and for filing a final report on 179th day i.e. 13.02.2023 is pending. Under these circumstances, the petitioner is entitled for statutory bail. Hence, the present Criminal Revision Case.

3.The learned Government Advocate (Crl.side) filed counter and objected to grant bail. He further contended that the petition for extension



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of time for filing the final report filed by the respondent police in

Crl.M.P.No.982 of 2023 is pending before the Trial Court for filing of counter.

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

5.On a perusal of the records, the fact reveals that on 19.08.2022, the respondent police received a secret information about illegal sale of Narcotic Substance, the respondent police rushed to the scene of occurrence along with the police team. At that time, the accused was found in possession of 26 kgs of ganja, which comes under commercial quantity. A case has been registered in Crime No.374 of 2022 by the respondent police, under Section 8(c) r/w. 20(b)(ii)(C) and 29(1) of NDPS Act and 328 of IPC against the accused and took up the case for investigation. The respondent police arrested the accused and remanded him to judicial custody. Admittedly, the petitioner was arrested and remanded to judicial custody on 19.08.2022. Within a period of 180 days, the respondent police



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ought to have filed the final report, but they have failed to file the same.

Therefore, the petitioner filed a statutory bail petition in Crl.M.P.No.1075 of 2023 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.982 of 2023 on 13.02.2023 for seeking extension of time for investigation and for filing a final report, which is still pending before the Trial Court. The details of the events are listed as below:-

<i>S.No.</i>	<i>Events</i>	<i>Dates</i>
1	Date of arrest	19.08.2022
2.	Completion of 180 th day	14.02.2023
3.	36(A)(iv) petitioner filed for 180 days	13.02.2023 on 179 th day
4.	Bail 167 Cr.P.C in Crl.M.P.No.1075/2023	Dismissed 22.02.2023

As on date no order has been passed by the Trial Court. So without taking any decision upon the extension of time for investigation, dismissing the statutory bail petition is unsustainable and contrary to 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



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petitioner is entitled to statutory bail.

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6. Accordingly, the impugned order dated 22.02.2023 passed in Crl.M.P.No.1075 of 2023 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.20,000/- (Rupees Twenty Thousand only) with two sureties for a sum of Rs.20,000/- (Rupees Twenty Thousand only) each, before the Principal Special Judge 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 shall appear before the respondent police on first day of every month at 10.30 a.m., until further orders;

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



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(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.

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

Index : Yes/No
Internet : Yes/No

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dsa



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To

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- 1.The Principal Special Judge
NDPS Cases, Chennai.
- 2.The Superintendent, Central Prison, Puzhal, Chennai.
- 3.The Inspector of Police,
D1-Thiruthani Police Station, Tiruvallur.
- 4.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM ,J.

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