



Crl.R.C.No.484 of 2023

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

Dated : 15/3/2023

C O R A M

**THE HONOURABLE Mr.JUSTICE V.SIVAGNANAM**

**Crl.R.C.No.484 of 2023**

Balakrishnan

...

Petitioner

Vs

State

rep. By The Inspector of Police

F 4 Kavarapettai Police Station

Tiruvallur District.

...

Respondent

**Prayer:** Criminal Revision Case filed under Section 401 r/w. 397 of the Code of Criminal Procedure to set aside the order, dated 24/2/2023, passed in Crl.M.P.No.1134 of 2023 on the file of the learned Principal Special Court EC & NDPS Act, Chennai and set aside the same and directing the Principal Special Court EC & NDPS Act, Chennai to grant statutory bail.

For Petitioner

...

Mr.O.Chembulingam

For Respondent

...

Mr.R.Vinoth Raja  
Government Advocate  
(Criminal Side)

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## **ORDER**

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This Criminal Revision Case has been filed to set aside the order, dated 24/2/2023, passed in Crl.M.P.No.1134 of 2023, by the learned Principal Special Court EC & NDPS Act, Chennai and direct the Principal Special Court EC & NDPS Act, Chennai to grant statutory bail.

2. Brief facts which are necessary for the disposal of this case are as follows:-

The petitioner/accused was arrested along with two others for having illegal possession of 21 kgs of ganja and was remanded to judicial custody on 24/8/2022 for the alleged offence punishable, under Section 8 (c) r/w. 20 (b) (ii) (C), 25 and 29 (1) of the NDPS Act and under Section 328 of the Indian Penal Code. The contraband was seized by the respondent Police and the same was produced before this Court in A.No.154 of 2023.

3. On 20/2/2023, a petition has been filed by the petitioner, under Section 167 (2) of the Code of Criminal Procedure, seeking mandatory bail, on the ground that the respondent Police has not completed the



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investigation and charge sheet was also not filed within the statutory period. Prior to that on 13/2/2023, prosecution had filed a petition under Section 36 A (4) of the NDPS Act and the learned Principal Special Judge, EC & NDPS Court, Chennai has considered the application, whereas, dismissed the application filed to enlarge the petitioner on statutory bail.

4. Being aggrieved, the petitioner has come before this Court praying for the relief as stated therein.

5. Heard Mr.O.Chembulingam, learned counsel for the petitioner and Mr.R.Vinothraja, learned Government Advocate (Criminal Side) for the respondent.

6. Learned counsel appearing for the petitioner submitted that the prosecution had sought for extension of statutory period of investigation for the reason that they have arrested the accused 1 to 3 but not A.4 and the Principal Special Judge under EC & NDPS Act, Chennai, allowed the petition filed in Crl.M.P.No.984 of 2023, but dismissed the petition filed by A.1 in Crl.M.P.No.1134 of 2023.



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7. Learned Government Advocate (Criminal Side) submitted that they sought extension of time for further investigation only to collect some crucial documents.

8. I have perused the materials available on record.

9. 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.209 of 2022 for the offences punishable under Sections 8 (c) r/w. 20 (b) (ii) (C) 25 and 29 (1) of the Narcotic Drugs & Psychotropic Substances Act, 1985. Admittedly, the petitioner was arrested and remanded to judicial custody on 24/8/2022. Within a period of 180 days, the respondent Police ought to have filed the final report. Therefore, the petitioner/A1 filed a statutory bail petition and the same was dismissed by the trial Court on 24/2/2023, on the ground that the respondent police filed a petition in Crl.M.P.No.984 of 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 ***M.RAVINDRAN Vs. THE INTELLIGENCE OFFICER, DIRECTOR OF REVENUE INTELLIGENCE (Crl.Appeal No.699 of 2020)***.



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10. The fact remains that the respondent Police has not filed final report, within the statutory period. Hence, the petitioner is entitled for statutory bail.

11. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 24/2/2023, passed in Crl.M.P.No.1134 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.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 Court, George Town, 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;



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

(c) the petitioner to appear before the respondent Police on the first working day of every month.

(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.

15/3/2023

Index :yes/no

Neutral Citation: Yes/No

mvs.



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To

1. The Principal Special Court EC & NDPS Act, Chennai
2. The Inspector of Police  
F 4 Kavarapettai Police Station  
Tiruvallur District.
3. VII Metropolitan Magistrate Court, George Town, Chennai
4. The Public Prosecutor, High Court, Madras.

**V. SIVAGNANAM, J**

mvs.



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