



WEB COPY



Crl.R.C.No.490 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.490 of 2023

Rajalakshmi @ Mithra

...

Petitioner

Vs

State

rep. By The Inspector of Police

Kodambakkam Police Station

T. Nagar

Chennai.

...

Respondent

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure to enlarge the petitioner on default bail in Crime No.81 of 2022 as only defective charge sheet has been filed on the file of the respondent.

For Petitioner

...

Mr.N.Nishar Ahamed

For Respondent

...

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

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3. Heard Mr.N.Nishar Ahamed, learned counsel for the petitioner and Mr.R.Vinoth Raja, learned Government Advocate (Criminal Side) for the respondent.

4. The learned counsel appearing for the petitioner submitted that if the charge sheet was filed within the stipulated period, accused shall have the absolute right for being released on bail. The petitioner is in judicial custody for more than 340 days and she is ready to offer sureties and would abide any stringent conditions imposed by this Court.

5. Learned Government Advocate would submit that though the respondent Police filed the defective charge sheet on 12/9/2022, they have resubmitted the same on 23/9/2022. The case has been taken by the trial Court in C.C.No.203 of 2022. On the date of considering the statutory bail application, the Court has already taken cognisance of the case. Hence, the petitioner is not entitled for statutory bail.

6. Perused the materials available on record.



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7. The fact reveals that the petitioner/A.2 was arrested along with A1 and 3 to 7 for having illegal possession of 4770 tablets of NITRAVET – 10, Alpersafe – 130 tablets and TYDOL – 2220 tablets + 100 tablets = 2320 tablets and he was arrested and remanded to judicial custody on 18/3/2022. The final report was filed and the same was taken on its file in C.C.No.203 of 2022. Charges were framed against the accused on 23/9/2022. When the case was pending for framing charges, petitioner has filed Crl.M.P.No.1203 of 2023 for default bail. Vide, order, dated 2/3/2023, the learned Principal Special Judge, under EC & NDPS Act, Chennai, has dismissed the same, on the ground that charge sheet was filed and the same was taken on file in C.C.No.203 of 2022.

8. It is relevant to note that the Hon'ble Supreme Court in ***STATE OF MADHYA PRADESH Vs. RUSTAM AND OTHERS {1995 SUPP (3) SUPREME COURT CASES – 221}***, wherein it has held that right to compulsive bail does not survive after filing of the challan. The Court must examine the availability of the right to compulsive bail on the date, it is considering the question of bail and not barely on the date of presentation of the petition for bail.



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9. In this case, trial Court has rightly considered the statutory bail application and since the same has been taken on file, as a matter of right, the petitioner cannot claim that she is entitled for statutory appeal. Therefore, the trial Court, dismissed the bail applications.

10. In such a view of the matter, I do not find any merit in the Criminal Revision Case and accordingly, the same is dismissed.

15/3/2023

Index :yes/no

Neutral Citation: Yes/No

mvs.

To

1. The Inspector of Police
Kodambakkam Police Station
T. Nagar
Chennai.

2. The Public Prosecutor, High Court, Madras.

V. SIVAGNANAM, J



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