



Crl.R.C.No.580 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.580 of 2023

Selvam

... Petitioner

Vs.

State Rep by
The Deputy Superintendent of Police,
Economic Offence Wing-II,
Salem District
(Crime No.04 of 2021)

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code, 1973 to set aside the order dated 02.03.2023 made in C.M.P.No.487 of 2023 on the file of Special Judge, Special Court under TNPID Act, Coimbatore and enlarge the petitioner on bail in connection with Crime No.04 of 2021 on the file of the respondent Police by allowing the present criminal revision petition.



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For Petitioner : Mr.M.Guruprasad
For Respondent : Mr.R.Vinothraja
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Petition has been filed to set aside the order passed by the learned Special Judge, Special Court under TNPID Act, Coimbatore in C.M.P.No.487 of 2023 dated 02.03.2023.

2.The learned counsel for the petitioner submitted that the respondent-Police registered a case against the petitioner/A4 in Crime No.4 of 2021 for the offences under Sections 120-B and 420 of I.P.C and Section 5 of TNPID Act and remanded to judicial custody on 23.12.2022. Within the statutory period, the respondent-Police failed to file the final report. After completion of statutory period, the petitioner filed a statutory bail petition filed in Crl.M.P.No.487 of 2023 before the trial Court on 21.02.2023. The respondent-Police filed the final report on 17.02.2023 and the same was returned on 27.02.2023 for



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rectifying certain defects. After compliance of the said defects, the respondent-Police filed the final report on 28.02.2023, which was taken on file only on 07.03.2023, i.e., subsequent to the statutory period. Therefore, the petitioner is entitled for statutory bail. The petitioner filed a statutory bail petition in Crl.M.P.No.487 of 2023 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore. The learned Special Judge dismissed the said petition on the ground that the filing of rectified final report on 28.02.2023 will stop the right of statutory bail, which is unsustainable, in view of the judgment of the Hon'ble Supreme Court reported in **(1994) 5 SCC 410 [Sanjay Dutt Vs The State of Maharashtra, through CBI (STF), Bombay]**. The learned counsel would further submit that any incomplete report will not affect the right of the accused for filing the statutory bail and to support his case, he would rely upon the judgment of the Hon'ble Supreme Court reported in **(2019) 14 SCC 599 [Achpal Alias Ramswaroop and Another Vs. State of Rajasthan]** and also the



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judgment reported in **(2021) 2 SCC 485 [M.Ravindran Vs.Intelligence Officer, Directorate of Revenue Intelligence]**. Hence, he seeks to grant statutory bail to the petitioner.

3.The learned Government Advocate (Crl.side) appearing for the respondent-Police submitted that the final report was not returned. It was filed on 17.02.2023, after rectifying some minor defects, it was filed on 28.02.2023, which was taken on file on 07.03.2023. Therefore, since the final report has been filed, the right of the petitioner for getting the statutory bail stands extinguished. Therefore, the trial Court has rightly dismissed the said petition and there is no reason to interfere with the impugned order.

4.I have considered the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (Crl.side) for the respondent.



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5. On perusal of the records, the fact reveals that the respondent-Police registered the case against the petitioner in Crime No.4 of 2021 for having committed the punishable offences under Sections 120-B and 420 of I.P.C and Section 5 of TNPID Act. The respondent-Police arrested the petitioner and remanded him to judicial custody only on 23.12.2022. Since the respondent-Police has not filed final report within the statutory period, the petitioner has filed statutory bail application before the trial Court. It is disputed by the respondent-Police that the final report has been filed on 17.02.2023 before completion of the statutory period. Therefore, the petitioner, as a matter of right, cannot claim statutory bail. Though there are some minor defects, they were rectified without return of the charge sheet and filed on 28.02.2023, which was taken on file only on 07.03.2023. In order to ascertain the said fact, a report has been called for from the trial Court to find out as to whether the final report filed by the respondent-Police on 17.02.2023, has been returned to the respondent-



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Police or error has been rectified without returning the charge sheet.

The learned Special Judge, Special Court for Cases under TNPID Act, Coimbatore sent a report dated 25.04.2023 to this Court, vide his proceedings No.D.No.404 of 2023, wherein, it is stated that the final report in Crime No.04 of 2021, which was filed on 17.02.2023, was returned with certain defects on 27.02.2023 and thereafter, the said report has been filed on 28.02.2023 after compliance, which was taken on file only on 07.03.2023. It is clear that the respondent-Police has not filed correct final report within the statutory period, in view of the principles laid down held by the Hon'ble Supreme Court reported in **(2019) 14 SCC 599 (cited supra)**. Since the final report was returned, there was no final report on record on expiry of statutory period and further, in view of the principles laid down in **(2021) 2 SCC 485 [M.Ravindran Vs.Intelligence Officer, Directorate of Revenue Intelligence]**, the petitioner's right of default bail, has become indefeasible by filing the bail petition when the right accrues, it



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continues, irrespective of pendency of bail application or subsequent filing of charge sheet.

6. In view of the above legal principles, the impugned order passed by the Trial Court in Crl.M.P.No.487 of 2023 dated 02.03.2023 is set aside and the criminal revision is allowed with the following conditions.

(i) The petitioner is directed to be enlarged on bail on condition that the petitioner *shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the Special Judge, Special Court under TNPID Act, Coimbatore*

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the concerned Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



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

(iv) **the petitioner shall report before the trial Court as and when required for interrogation.**

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

(vi) 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 has 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;

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

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Index: Yes/No
Internet: Yes/No
srn



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To

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1. The Special Judge, Special Court under TNPID Act, Coimbatore
2. The Deputy Superintendent of Police,
Economic Offence Wing-II,
Salem District
3. The Superintendent, Central Jail, Coimbatore.
4. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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