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Crl.RC.No.1229 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

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THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.RC.No.1229 of 2023

Muthu Pandi

...Petitioner

vs.

Inspector of Police
R2 Kodambakkam Police Station
Chennai

...Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 Criminal Procedure Code, 1973 against the order passed in Crl.M.P.No.4406 of 2022 on 03.10.2022 by the learned Principal Special Judge under NDPS Act, Chennai, and enlarge the petitioner on statutory bail in Cr.No.81 of 2022 on the file of the respondent police.

For Petitioner : Mr.N. Nishar Ahamed

For Respondent : Mr. J. Subbiah

Government Advocate (Crl.Side)

ORDER

Challenging the orders passed in Crl.M.P.No.4406 of 2022 in CC.No.203/2022 dated 03.10.2022, on the file of the Principal Special Court under EC & NDPS Act, Chennai, the present Criminal Revision Petition is filed.

2. The revision petitioner/Accused No.4 filed the abovesaid Criminal



Miscellaneous Petition under Section 167(2) Cr.P.C. praying to enlarge him on statutory bail since the final report was not filed by the police within the stipulated period of 180 days. The said petition was dismissed by the Principal Special Judge under EC & NDPS Act, vide her orders dated 03.10.2022, on the ground that the present petition has been filed on 13.09.2022 i.e 180th day and prior to that the prosecution filed a petition under Section 36A(4) of NDPS Act on 176th day i.e. on 09.09.2022 seeking extension of statutory period of investigation. However, the prosecution completed the investigation and filed the final report on 12.09.2022 itself i.e. 179th day and the same was also taken on file by the court in CC No.203/2022.

3. The case of the prosecution in nutshell is as follows:

- i. The Sub Inspector of Police, R2 Kodambakkam Police Station, on receipt of information over phone, went near Trust Puram play ground at about 9 a.m. on 17.03.2022 along with his police party, drug Inspector and other experts and found the accused 1 to 6 selling 10 strips of Nitrovet 10 mg and 10 strips of Tydol 100 mg.
- ii. After following necessary procedures under NDPS Act, the police arrested all the accused and also seized the contraband.



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iii. FIR in Crime No.81/22 in R2 Kodambakkam Police Station was

registered against all the accused and they were remanded to judicial custody.

iv. After completing the investigation, the prosecution filed a final report on 179th day i.e. 12.09.2022 before the Principal Special Court under EC & NDPS Act, Chennai.

v. The learned Principal judge took the case on file in CC No.203/2022.

vi. The present revision petitioner filed a petition under Section 167(2) Cr.P.C.in Crl.M.P. No.4406/2022, on 180th day and the same was dismissed by the learned Principal Special Judge under EC & NDPS Act, Chennai, as stated above.

4. Heard Mr.N. Nishar Ahamed, learned counsel for the petitioner and Mr. J. Subbiah, learned Government Advocate (Crl. side).

5. Mr.N. Nishar Ahamed, learned counsel for the petitioner contended that the other accused who were similarly placed were granted default bail by the same Special Judge on 28.03.2023 in Crl.M.P.Nos.1851/23 and 2492/23.



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6. A perusal of the orders passed in both the Criminal Miscellaneous Petitions shows that the learned Principal Special Judge under EC & NDPS Act, Chennai, had observed that though the final report was filed on 12.09.2022 and was taken on file in CC No.203/2022, the final report was incomplete since the documents pertaining to freezing of Bank Accounts of A1 to A6 were not filed along with the final report. According to the learned Special Judge, these documents are material documents and that they were filed only on 23.09.2023.

7. At the outset, it may be observed that the material documents for taking cognizance of any offence in a particular case are FIR, statements of witnesses, documents necessary to prove the case of the prosecution etc. In the instant case, the documents pertaining to freezing of bank accounts of A1 to A6 cannot be said to be material records as contemplated under Section 173(5) of Cr.P.C. In the circumstances, the petitioner is not entitled to get a bail under Section 167(2) Cr.P.C. However, he can approach the court seeking for regular bail.

8. With the above observations, this Criminal Revision Petition is



Crl.RC.No.1229 of 2023

dismissed. No costs.

WEB COPY

17.07.2023

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Index : yes/no

Speaking /Non speaking Order

To

1. The Principal Special Judge under NDPS Act, Chennai,
2. The Section Officer, Criminal Section, High Court, Madras.



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CrI.RC.No.1229 of 2023

R.HEMALATHA, J.

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