



Crl.R.C.No.1201 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM

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

Crl.R.C.No.1201 of 2023

Viji

... Petitioner

Vs.

State represented by
The Inspector of Police,
PEW Gumudipoondi Police Station,
Tiruvallur District
(Crime No.330 of 2022)

... Respondent

Prayer : Criminal Revision Petition is filed under Section 397 r/w. 401 of Cr.P.C. to set aside the order dated 31.05.2023 made in CrlM.P.Nos.3167/2023 & 3422/2023 in Crime No.330/2022 on the file of the Principal Special Court under EC & NDPS Act, Chennai

For Petitioner : Ms.G.Gayathri for Mr.P.Chandrasekar

For Respondent : Mr.J.Subbiah, Govt. Advocate (Crl. Side)

ORDER

The present criminal revision petition is directed against the orders dated 31.05.2023 in Crl MP Nos.3167/2023 & 3422/2023 on the file of the Principal Special Court under EC & NDPS Act, Chennai.



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2.The case of the prosecution is that the accused 1 & 2 who were found in illegal possession of 34 kgs of Ganja, were arrested by the Inspector of Police, PEW Gumudipoondi Unit and were remanded to judicial custody on 19.11.2022 for the alleged offences u/s.8 (c) r/w. 20 (b)(ii)(c) of NDPS act, 1985 and 290(1) of IPC. Since the period for completion of investigation for filing charge sheet is 180 days, on 173rd day, a petition under Section 36(A)(4) of NDPS Act was filed by the prosecution seeking extension of time for filing the final report. Notice was issued to the accused and it was served on her. Even though notice was served, there was no representation on her side. Simultaneously, the counsel for the revision petitioner/accused filed a petition in Crl.M.P.No.3422/2023 under Section 167(2) of Cr.P.C. seeking default bail since the final report has not been filed on time. The learned Principal Special Judge, EC & NDPS Act, Chennai, after considering rival submissions, allowed Crl.M.P.No.3167/2023 filed by the prosecution and extended the time for completion of investigation for a further period of four months. The learned Special Judge dismissed the



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default bail petition filed by the accused under Section 167(2) Cr.P.C.

Challenging the denial of default bail, the accused has filed this criminal revision petition.

3.Heard Ms.G.Gayathri, learned counsel for the revision petitioner and Mr.J.Subbiah, learned Government Advocate (Crl. Side) for the respondent.

4.The learned counsel for the petitioner contended that the revision petitioner was not at all served in Crl.M.P.No.3167/2023 before the extension of time granted to the prosecution for completing investigation. However, it is seen that the counsel for the revision petitioner before the Court below filed a petition under Section 167(2) of Cr.P.C. during the same time and both the petitions were heard together. In such circumstances, it cannot be said that the present revision petitioner was not aware of the fact that the prosecution had filed the petition u/s.36(A)(4) of the NDPS Act seeking extension of time. In fact, the learned trial Judge, in Para 8 of the order dated 31.05.2023 had



WEB COM observed thus :

8. On perusal of records, it is seen that in this case, A1 and A2 were arrested for having illegal possession of 34 kgs of ganja and were remanded to judicial custody on 19.11.2022 for the alleged offences u/s.8(c) r/w. 20(b) (ii)(c) and 29(1) of the NDPS Act. The contraband had been seized by the respondent and the same had also been produced before this Court. The sample had been sent to Lab for chemical analysis. As the seized contraband from the accused persons is a commercial quantity, the statutory period for completing the investigation and for filing the Final Report is 180 days. The right to statutory bail accrues for the accused person on 181st day. The prosecution side have filed the above petition in Crl.M.P.No.3167/2023 seeking extension of time for investigation on 173rd day i.e. 10.05.2023 u/s.36(A)(4) of NDPS Act. The learned counsel for the petitioner / A1 has filed a petition in Crl.M.P.No.3422/2023 seeking default bail on 22.05.2023 u/s.167(2) of Cr.P.C. on the ground that the respondent police had not completed the investigation and had not filed the charge sheet. Under such circumstances, this Court is of the view that the plea of the prosecution is convincing and



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the prosecution is not expected to detail each and every aspect of the progress of the case and certainly not for the accused to know it all. Of course, it is expected that the prosecution will speed up the investigation because just the official delay in investigation shall not elude the other side from getting the statutory bail."

5.Hence, I do not find any reason to interfere with the same.

Accordingly, this Criminal Revision Petition is dismissed. No costs.

07.07.2023

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

mtl



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R. HEMALATHA, J.
mtl

To

1.The Principal Special Court under EC & NDPS Act, Chennai

2.The Inspector of Police,
PEW Gumudipoondi Police Station,
Tiruvallur District.

3. The Section Officer,
Criminal Section, High Court,
Madras.

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