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Criminal Original Petition No.20387 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.20387 of 2023

Vimala Devi
W/o.Rajendran

...Petitioner

Vs

State represented by
The Inspector of Police,
NIB-CID Salem.
Crime No.29 of 2023

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to set aside the docket order passed by learned Special Judge for EC/NDPS Act cases at Salem in CrI.M.P.(Sr) No.1627 of 2023 dated 24.08.2023 in Crime No.29 of 2023 pending on the file of respondent and consequently, direct the learned Special Judge for EC/NDPS Act cases at Salem to accept the statutory bail petition u/s.167(2) Cr.P.C. of this petitioner and decide the same as per law.



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For Petitioner : Mr.B.S.Manikandan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dated 24.08.2023 refusing to entertain the petition filed by the petitioner u/s.167(2) Cr.P.C.

2. Heard Mr.B.S.Manikandan, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

3. The First Information Report has been registered against the petitioner for offence u/s.8(c) r/w Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985. The petitioner was arrested and remanded to judicial custody on 14.06.2023. The petitioner filed a petition u/s.167(2) Cr.P.C. on the 71st day i.e. on 24.08.2023. The Court below refused to entertain this petition on the ground that the statutory period has



not come to an end.

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4. The offence for which the First Information Report has been registered against the petitioner is punishable for a term, which may extend to 10 years. The Apex Court in ***Rakesh Kumar Paul v. State of Assam [2017 (3) MWN (Crl.) 1]*** has categorically held that an offence punishable with a minimum imprisonment of 10 years alone is covered under 90 days and the punishment that may extend to 10 years will fall under the category of 60 days. In view of the same, the present case where the punishment extends up to 10 years, the final report ought to have been filed within a period of 60 days. Admittedly, the final report was not filed within 60 days and it was filed only after the petitioner had filed a petition u/s.167(2) Cr.P.C. In view of the same, the Court below ought to have entertained the petition since the petitioner has the right to be released on statutory bail.

5. In the light of the above discussion, the order passed by the Court



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below refusing to entertain the petition dated 24.08.2023 is hereby set aside.

The petitioner is entitled to be released on statutory bail on the following conditions:

- (i) the petitioner shall execute a bond for a sum of Rs.10,000/- [Rupees Ten Thousand only] with two sureties for the like sum to the satisfaction of the Special Judge for EC/NDPS Act cases at Salem;
- (ii) the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;
- (iii) on breach of any of the aforesaid conditions, 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]***.
- (iv) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

This Criminal Original Petition is disposed of with the above



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direction.

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05.09.2023

Note: Issue today (05.09.2023)

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

1.The Special Judge for EC/NDPS Act cases,
Salem.

2.The Inspector of Police,
NIB-CID Salem.
Crime No.29 of 2023

3.The Public Prosecutor,
High Court, Madras.

N.ANAND VENKATESH, J

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