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Crl.OP.No.30538 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.30538 of 2022

R.Mohammed Mudassir

... Petitioner

Vs.

The State represented by
The Inspector of Police,
F-4, Thousand Lights Police Station,
Chennai – 600 006.
(Crime No.45 of 2022)

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and papers relating to Cr.M.P.No.4768 of 2022 on the files of the Principal Special Judge, Principal Special Court under EC & NDPS Act, and set aside the order dated 03.10.2022.

For Petitioner : Mr.S.Apunu

For Respondent : Mr.S.Santhosh
Government Advocate (Criminal Side)



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ORDER

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This Criminal Original Petition is filed to call for the records and papers relating to Cr.M.P.No.4768 of 2022 on the files of the Principal Special Judge, Principal Special Court under EC & NDPS Act, and set aside the order dated 03.10.2022.

2. The learned counsel for the petitioner submitted that petitioner is the 4th accused in Crime No.45 of 2022, on the file of the Inspector of Police, F-4, Thousand Lights Police Station. Petitioner filed a bail petition under Section 167(2) Cr.PC to enlarge the petitioner on bail, for the reason that despite completion of 180 days from the date of his arrest on 27.03.2022, the respondent police has not filed final report.

3. This petition was opposed by the learned Government Advocate (Criminal Side), on the ground that respondent police filed a petition under Section 36-(A) (4) of NDPS Act, in Crl.M.P.No.4768 of 2022 for extension of



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statutory period for investigation. On considering the rival submissions, the learned Principal Special Judge dismissed the bail petition.

4. It is the submission of the learned counsel for the petitioner that without deciding the petition filed under 36-(A) (4) of NDPS Act, seeking extension of statutory period for investigation and without giving extension, the dismissal of statutory bail petition under Section 167 Cr.PC is illegal. Therefore, he filed this petition.

5. This matter is pending for quite some time. When the matter is taken up on 19.12.2022, this Court directed to call for report from the learned Principal Special Judge, Principal Special Court under EC and NDPS Act, Chennai, to ascertain as to whether petition filed under Section 36-A (4) of the NDPS Act, for extension of time is pending or disposed.

6. In pursuance to the request, the learned Principal Special Judge sent a letter in Dis.No.72 of 2023 dated 04.01.2023, along with copy of the order



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passed in Crl.M.P.No.4768 of 2022. However, there is no information provided by the learned Principal Special Judge, as to the pendency or disposal of the petition filed under Section 36-A (4) of the NDPS Act, which was taken on file in Crl.M.P.No.4768 of 2022.

7. When the matter is taken up today, the learned counsel for the petitioner produced a copy of the order passed in Crl.M.P.No.4768 of 2022 filed under Section 36-A (4) of the NDPS Act. Perusal of this order shows that this petition was dismissed by learned Principal Special Judge on 03.10.2022.

8. The learned Judge dismissed the petition, for the reason that the seized contraband was produced before the Court only on 19.12.2022, after the petition was posted for orders. Under such circumstances, the learned Judge was not convinced with the reasons stated by the prosecution for extension of time and therefore dismissed the petition.



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9. As of now, the extension petition filed by the respondent Police for extension of period of investigation was not favourably considered and it was dismissed.

10. Therefore, the petitioner, as a matter of right is entitled for statutory bail under Section 167 CrPC, for the reason that the respondent police have not filed the final report within a period of 180 days from the date of the arrest of the petitioner.

11. In view of the matter, this court set asides the order passed by the learned Principal Special Judge in Crl.M.P.No.4768 of 2022 and allows the statutory bail petition with conditions.

12. Accordingly, the petitioner is ordered to be released on bail on executing 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 **Learned XIV Metropolitan Magistrate, Egmore** and on further conditions that:



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[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioner shall **report before the respondent police every day at 10.30 a.m., until further orders;**

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] 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 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];**

[f] If the accused thereafter abscond, a fresh FIR can be registered under



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Section 229A IPC.

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05.01.2023

Internet : Yes / No

Index : Yes / No

Speaking/Non speaking order

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Note: Issue order copy on 06.01.2023.

G.CHANDRASEKHARAN,J.

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To

1. The Principal Special Judge,
Principal Special Court under EC & NDPS Act.
2. The XIV Metropolitan Magistrate,
Egmore.
3. The Superintendent,
Central Prison Puzhal-I,
Puzhal.
4. The Inspector of Police,
F-4, Thousand Lights Police Station,
Chennai – 600 006.
5. The Public Prosecutor,
Madras High Court.

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