



Crl.M.P.No.4789 of 2024
in Crl.R.C.No.39 of 2024

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M. NIRMAL KUMAR, J.

Challenging the dismissal of the statutory bail petition, the petitioner had filed the above revision.

2. In the revision petition, the petitioner sought to set aside the order in Crl.M.P.No.7857 of 2023, which is the extension petition filed by the prosecution under Section 36A(4) of the NDPS Act. The learned counsel for petitioner filed a statutory bail petition in Crl.M.P.No.8044 of 2023 on 20.10.2023. The petitioner was arrested on 23.04.2023. Charge sheet ought to have been filed on or before 20.10.2023, which is the 181st day. Since, charge sheet was not filed, the petitioner filed a petition under Section 167(2) Cr.P.C. on 20.10.2023. In the meanwhile, the respondent police filed a petition under Section 36A(4) of NDPS Act on 16.10.2023. No notice was served to the petitioner and by way of a common order dated 14.12.2023, the extension petition filed by the prosecution in Crl.M.P.No.7857 of 2023 was allowed but the statutory bail petition filed by the petitioner in Crl.M.P.No.8044 of 2023 was dismissed.

3.He further submitted that in his petition at paragraph 3 he had given



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the dates on which he was arrested and remanded, the period of petitioner's detention in prison, date of filing of extension petition as well as date of filing of statutory bail petition. Since it was a common order he narrated both the extension petition as well as statutory bail petition. He further referred to Section 36-A petition extensively for the reason that notice was not served to him which amounts to violation under Article 21 of Constitution of India and no order can be passed without serving notice to the petitioner. In the prayer instead of mentioning Crl.M.P.No.8044 of 2023, by oversight it has been mentioned as Crl.M.P.No.7857 of 2023. Both the orders have been passed by a common order and date, hence, inadvertently the mistake had crept in.

4.Finding reason and force in the submission of the learned counsel for petitioner, this Criminal Miscellaneous Petition is ordered.

5.The Registry is directed to carry out the amendment in the cause-title.

15.03.2024

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