



Crl.R.C.No.995 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.995 of 2024

Kiran

... Petitioner

Vs.

The State Rep.by
The Inspector of Police,
Thoppur, Police Station,
Dharmapuri District.
Crime No.78/2024.

... Respondent

PRAYER : Criminal Revision filed under Section 397 r/w. 401 of the code of Criminal Procedure, to set aside the impugned order passed by the learned Judicial Magistrate No.II, Dharmapuri, in Crl.M.P.No.3194/2024 in Crime No.78 of 2024 on the file of the respondent Police, dated 30.05.2024 and consequently, enlarge the petitioner on bail.

For Petitioner : Mr.C.R.Gokulvilas

For Respondent : Mr.A.Gopinath



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ORDER

The Criminal Revision Case is filed against the impugned order dated 30.05.2024 passed by the learned Judicial Magistrate No.II, Dharmapuri, in Crl.M.P.No.3194/2024 in Crime No.78 of 2024 on the file of the respondent Police, and to enlarge the petitioner on bail.

2. The learned counsel appearing for the petitioner would submit that the petitioner was implicated in Crime No.78 of 2024 which was registered for the offence punishable under Section 328 IPC r/w. Section 7 of COTPA Act, 2003 and he was arrested and remanded to judicial custody on 20.03.2024. The petitioner has filed a bail petition in Crl.M.P.No.903 of 2024 before the Principal District Judge, Dharmapuri and he was granted bail on condition that he shall deposit a sum of Rs.1,40,800/- to the Mediation and Conciliation Centre, Dharmapuri. He could not deposit the said amount and is in jail for nearly 70 days and therefore, he has filed a petition seeking statutory bail before the trial Court, however, the trial Court, without considering the provision under Section 167(2)(a)(ii) Cr.P.C, has



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dismissed the petition filed by the petitioner. As per Section 167(2)(a)(ii) Cr.P.C, the respondent Police has to file the charge sheet within a period of 60 days, however, in the present case, the respondent Police has not completed the investigation and not filed the charge sheet. Hence, the petitioner is entitled for statutory bail, since he is in prison for more than 60 days.

3. The learned Government Advocate (Crl.side) appearing for the respondent Police submits that since the earlier bail granted by the learned Principal District Judge, Dharmapuri, was not complied with, the second petition filed by the petitioner seeking statutory bail was rightly dismissed by the Court below, which does not require any interference by this Court.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.side) appearing for the respondent Police.



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5. Admittedly, the petitioner has been arrayed as accused in Crime No.78 of 2024 and was remanded to judicial custody on 20.03.2024. He moved a bail petition in Crl.M.P.No.903 of 2024 before the learned Principal District Judge, Dharmapuri and the same was allowed on condition that the petitioner shall deposit a sum of Rs.1,40,800/- to the Mediation and Conciliation Centre, Dharmapuri, however, he has not paid the amount and since he is in prison for nearly 70 days and the charge sheet has not been filed, a statutory bail petition was moved by the petitioner in Cr.M.P.No.3194/2024 before the learned Judicial Magistrate No.II, Dharmapuri, but the same was dismissed. As per Section 167(2)(a)(ii) Cr.P.C, if the Police has not completed the investigation and not filed the charge sheet within a period of 60 days, the accused shall be released on bail. In the instant case, the respondent Police has not completed the investigation and has not laid the charge sheet within stipulated time and the petitioner is in prison for more than 70 days, hence, the petitioner is entitled to avail the benefit provided under Section 167(2)(a)(ii) Cr.P.C. Therefore, the impugned order dated 30.05.2024 passed by the learned Judicial



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Magistrate No.II, Dharmapuri, in Crl.M.P.No.3194 of 2024 is set aside and the petitioner is directed to be released on statutory bail on executing a bond for a sum of **Rs.10,000/-(Rupees Ten Thousand only)** with two sureties, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Dharmapuri**, and on further conditions that:

(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 is directed to appear before the respondent police daily at 10.30 a.m., for a period of four weeks and thereafter, as and when required for interrogation;

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond 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



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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]*; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

6. Accordingly, the Criminal Revision Case is allowed.

13.06.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb

Note: Issue order copy on **13.06.2024.**

To

1. The learned Judicial Magistrate No.II, Dharmapuri.

2.The Superintendent,
Sub Jail, Dharmapuri.

3.The Inspector of Police,



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Thoppur, Police Station,
Dharmapuri District.

4.The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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M.DHANDAPANI, J.

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