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Crl.O.P.No.21737 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.21737 of 2024

Jaffer Sadiq

... Appellant

Vs.

1. The Assistant Director,
Directorate Of Enforcement,
Chennai Zonal Unit-1,
5th And 6th Floor,
BSNL Administrative Building,
Kushkumar Road, Nungambakkam,
Chennai - 600 034.

2. The Director General Of Prisons,
Office Of The Director General Of Prisons,
Prisons Head Quarter,
Near Lajwanti Garden Chowk,
Janak Puri, New Delhi.

3. The Superintendent,
Jail No.4, Tihar Central Jail,
Tihar Jail, Delhi 110058.

... Respondents



Crl.O.P.No.21737 of 2024

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Prayer :- Criminal Original Petition filed 482 of the Criminal Procedure Code, 1973, to set aside the remand order dated 15.07.2024 passed by the learned Principal Sessions Judge, (Special Court under PMLA), Chennai in Crl.M.P.No.19305 of 2024 declare the same as illegal and all consequential proceedings thereto.

For Appellant : Mr.Abdu Kumar Raja Rathinam for
Mr.K.M.Kalicharan

For Respondents : Mr.N.Ramesh,
Special Public Prosecutor for ED
(for R1);

No Appearance (For R2 & R3)

JUDGMENT

(Order of the Court was delivered by S.M.Subramaniam J.)

The Criminal Original Petition on hand has been instituted to assail the remand order dated 15.07.2024 passed by the Learned Principal Sessions Judge (Special Court under PMLA), Chennai, in Crl. M.P. No.19305 of 2024 by declaring the said order as illegal.



Crl.O.P.No.21737 of 2024

2. The learned Senior Counsel Mr. Abdu Kumar Raja Rathinam, appearing on behalf of the appellant, would submit that the learned Special Judge/Principal Session Judge, while issuing the impugned remand order, has not applied mind with reference to the materials and the necessity for issuing such remand order. Though, competency to issue remand order has not been questioned, the decision taken by the learned Special Judge, for issuing the impugned order, is doubtful and thus, under challenge. The contention raised by the petitioner before the learned Special Judge was that the accused has been released on bail in S.C. No.150 of 2024 on the file of the Special Judge, NDPS Cases, Patiala House Courts, New Delhi, and the accused ought to have been released from the prison immediately by making endorsement in the P.T. Warrant and the said P.T. Warrant ought to have been returned to this Court and therefore, the P.T. Warrant became infructuous. The P.T. Warrant, dated 02.07.2024, for the production of the accused was issued and directed to produce the accused before the Court on 15.07.2024, while he was in judicial custody in connection with some other case. As such, the accused has been produced. The Court cannot decide the said contention with some other case.



Crl.O.P.No.21737 of 2024

3. With reference to the above submission made on behalf of the petitioner before the Special Court, the learned Principal Sessions Judge/ Special Court made a finding that the accused has been produced before the learned Special Judge. The Court formed an opinion that a decision cannot be taken whether the accused was kept in an illegal custody by the Jail Authorities or not, in the case of NCB New Delhi. Under those circumstances, the learned Special Judge had gone through the records submitted by the Enforcement Directorate. On perusal of the records, it is found that the Assistant Director, Enforcement Directorate has recorded his reasons to believe in writing based on the materials in his possession and it was communicated to the accused. The grounds of arrest in writing was informed and communicated to the accused. The accused has signed for the receipt of reasons to believe and also the grounds of arrest. The arrest of the accused has been informed to his brother Shri.Mohammed Saleem through his mobile number. Therefore, the conditions stipulated for making arrest of the accused under Section 19 of Prevention of Money Laundering Act, 2002 (PMLA), have been complied with.

4. The offences under Sections 9(A), 25(A) and 29 of NDPS Act in



Crl.O.P.No.21737 of 2024

S.C.No.150 of 2024, are scheduled offences under PMLA. Based on the materials available on record, the learned Special Judge found that prima facie case has been made out against the accused for the offence under Section 3 of PMLA, punishable under Section 4 of PMLA. The grounds of arrest and the right of legal assistance are informed to the accused.

5. Therefore, we found that the learned Special Judge / Principle Sessions Judge exercised his power conferred and issued the remand order on satisfaction and after perusal of the materials produced by the Enforcement Directorate. Since the offence under NDPS Act is a scheduled offence under PMLA, the records produced by the Assistant Director, Enforcement Directorate, was taken into consideration for issuing the remand order. Thus, the ground raised about alleged illegal detention need not be considered by this Court for the purpose of upholding the validity of the remand order, which is under challenge.

6. The judgment relied on by the learned Senior Counsel, appearing on behalf of the petitioner have no assistance to support the case of the petitioner, since the facts and circumstances are different.



Crl.O.P.No.21737 of 2024

7. The challenge made in the present petition is the remand order and we found that there is no infirmity or perversity in remanding the accused. Therefore, the petitioner has not made out any acceptable ground for the purpose of assailing the remand order. Consequently, the Criminal Original Petition stands dismissed.

(S.M.S.J.,)

(V.S.G.,J.)

11.09.2024

Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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S.M.SUBRAMANIAM, J.

and

V.SIVAGNANAM, J.

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