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Crl.RC.Nos.1847, 1849, 1885 and 2002 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-12-2024

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL RC.Nos.1847, 1849, 1885 and 2002 of 2024

MOHAMED ASARUTHIN
S/O.SAHUL AMEED, NO.32B, MANIKANDAN STREET,
NEAR VELLAMMAL SCHOOL, GANAPATHINAGAR,
K.SATHANUR, TIRUCHIRAPPALLI - 620 021.

APPELLANT(S)

Vs

THE STATE OF TAMIL NADU REP. BY
THE INSPECTOR OF POLICE, PEW GUMMIDIPOONDI
UNTI,GUMMIDIPOONDI, THIRUVALLOOR DISTRICT.

RESPONDENT(S)

For Appellant(s): A.RAJAMOHAMED
MURUGESHKASIVEL
V.SHAHIRA BANU
P.SAMSON

For Respondent(s):
PUBLIC PROSECUTOR

ORDER

Today, these revisions are listed under the caption 'for being mentioned' at the instance of the learned counsel for the the petitioner in Crl.R.C.No.2002 of 2024.

2. Mr.A.Samson, learned counsel for the revision petitioner in Crl.R.C.No.2002 of 2024 submitted that he has wrongly mentioned the Crime number in the prayer portion as Cr.No.118 of 2024 instead of Cr.No.112 of 2024.

3. In view of the same, Registry is directed to make necessary correction and issue a fresh order copy, forthwith.



Crl.RC.Nos.1847, 1849, 1885 and 2002 of 2024

09-12-2024

SUNDER MOHAN, J.

ars

CRL RC.Nos.1847, 1849, 1885
and 2002 of 2024



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Crl.RC.Nos.1847, 1849, 1885 and 2002 of 2024

09.12.2024



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Crl.RC.Nos.1847, 1849, 1885 and 2002 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.Nos.1847, 1885, 1849 and 2002 of 2024

Crl.R.C.No.1847 of 2024

Mohamed Asaruthin

... Petitioner/A1

Vs.

The State of Tamil Nadu, rep. by

The Inspector of Police,

Gummidipoondi, Prohibition Enforcement Wing,

Gummidipoondi,

Tiruvallur District.

... Respondent / Complainant

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C., to set aside the order of Extension of Investigation passed by the learned Principal Special Judge under EC and NDPS Act at Chennai passed in Crl.M.P.No.11312 of 2024 dated 18.10.2024 in Cr.No.164 of 2024 (on the file of the respondent) and enlarge the petitioner on bail.

For Petitioner : Mr.A.Rajamohamed

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor



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Crl.RC.Nos.1847, 1849, 1885 and 2002 of 2024



Crl.R.C.No.1849 of 2024

Naresh Babu

... Petitioner/A1

Vs.

The State of Tamil Nadu, rep. by
The Inspector of Police,
H-8, Thiruvottiyur Police Station,
Chennai District.

... Respondent / Complainant

PRAYER: Criminal Revision Case filed under Sections 438 r/w 442 of the BNSS, to set aside the order of dismissal passed by the learned Principal Special Judge under EC and NDPS Act at Chennai in the petition in Crl.M.P.No.8658 of 2024 dated 22.10.2024 filed under Section 167 (2) (Now under Section 187(3) of BNSS) in Cr.No.316 of 2024 (on the file of the respondent) and enlarge the petitioner on bail.

For Petitioner : Mr.A.Samson

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

Crl.R.C.No.1885 of 2024

Ramesh

... Petitioner/Accused

Vs.

The State of Tamil Nadu, rep. by
The Inspector of Police,
T-1 Ambattur Police Station,
Tiruvallur District.

... Respondent / Complainant



Crl.RC.Nos.1847, 1849, 1885 and 2002 of 2024

PRAYER: Criminal Revision Case filed under Sections 438 r/w 442 of the BNSS, to set aside the order passed in Crl.M.P.No.10086 of 2024 dated 20.09.2024 on the file of the learned Principal Special Judge under EC and NDPS Act at Chennai.

For Petitioner : Mr.M.G.Martin Manivannan
for C.M.Ramakrishnan

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

Crl.R.C.No.2002 of 2024

Manoj Kumar

... Petitioner/A1

Vs.

The State of Tamil Nadu, rep. by
The Inspector of Police,
B-1, North Beach Police Station,
Chennai District.

... Respondent / Complainant

PRAYER: Criminal Revision Case filed under Sections 528 of the BNSS, to set aside the order of dismissal passed by the learned Principal Special Judge under EC and NDPS Act at Chennai in the petition in Crl.M.P.No.11896 of 2024 dated 29.10.2024 filed under Section 167 (2) (Now under Section 187(3) of BNSS) in Cr.No.118 of 2024 (on the file of the respondent) and enlarge the petitioner on bail.

For Petitioner : Mr.A.Samson

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor



COMMON ORDER

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Since the issues involved in all the revisions are substantially the same, all the revisions are taken up and a common order is passed.

2. The broad submissions of the petitioners in all the cases is that the petitioners' applications for statutory bail were dismissed by the trial Court belatedly; that the extension applications filed by the respondent was not considered along with bail applications; that in any case, indefeasible right of the accused accrues on the expiry of the statutory period and notwithstanding the pendency of extension application, the accused are entitled to bail.

3. In one of the cases viz., Crl.R.C.No.1847 of 2024, the challenge is to the order passed in the extension application filed by the respondent and it is the case of the petitioner that since the extension application did not satisfy the requirements in law, the order passed by the learned Special Judge has to be set aside.

4. The learned Additional Public Prosecutor would submit that in all the cases the extension applications were filed much before the



statutory period prescribed for filing the final report; that the delay if any by the learned Judge in considering the application, cannot be put against the prosecution; that the judgment of the Constitutional Bench of the Hon'ble Supreme Court in *Sanjay Dutt v. State through CBI, Bombay* reported in **1994 (5) SCC 401**, would make it clear that when an application is filed for extension to file the final report before the end of the statutory period, the right of the accused to seek default bail does not accrue.

5. The learned counsel for the petitioners relied upon the following judgments of the Hon'ble Supreme Court and this Court in support of their submissions.

- (i) Sanjay Kumar Kedia V. Intelligence Officer, NCB, reported in (2009) 17 SCC 631;
- (ii) Judgebir Singh v. National Investigation Agency, reported in (2023) SCC OnLine SC 543
- (iii) Full Bench Judgment of Calcutta High Court in Subhas Yadav v. State of West Bengal, reported in (2023) SCC OnLine Cal 313
- (iv) The order of this Court in CrI.R.C.No.924 of 2023 dated 22.06.2023 [Ajith v. State]
- (v) The order of this Court in CrI.R.C.No.2122 of 2023 dated 08.02.2024 [Grant Victor Ikenna v. State]



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6. Mr.E.Raj Thilak, the learned Additional Public Prosecutor relied upon the following judgments of the Hon'ble Supreme Court and orders of this Court, in support of his submissions.

- (i)Constitutional Bench judgment of the Hon'ble Supreme Court in Sanjay Dut v. State through CBI, Bombay, reported in (1994) 5 SCC 410
- (ii)Ramber Shokeen v. State (NCT of Delhi), reported in (2018) 4 SCC 405
- (iii)M.Ravindran v. Intelligence Officer, DRI, reported in (2021) 2 SCC 485
- (iv)Jigar alias Jimmy Pravinchandra Adatiya v. State of Gujaraj, reported in (2023) 6 SCC 484
- (v)The order of this Court in Crl.O.P.(MD).No.3225 of 2022 dated 17.03.2022 [Sathish and Another v. State]
- (vi)The order of this Court in Crl.R.C.No.1093 of 2024 dated 10.07.2024 [Mathew v. State]

7. The questions involved in these revisions are primarily,

(a) Whether the right of default bail accrues on the expiry of the statutory period, if the application for extension is filed by the State and is pending consideration?

(b) If the extension application is filed within the statutory period, as to when and how the said application has to be considered and whether it has to be considered along with the bail application filed by the accused?



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8. The facts specific to the captioned cases are necessary to decide the above issues. For that purpose, the date on which the petitioners were arrested and the applications for extension of time were filed would be relevant. The said dates are as follows:

Sl. No.	Crl.R.C. No.	Date of Arrest	180 th day falls on	Date of Extn. Appln.	Date of Bail Appln.	Date of order in Extn. Appln.	Date of order in Bail Appln.	Seizure
1	1885/24	10.03.24	06.09.24	30.08.24 (173 rd day)	10.09.24	19.09.24	20.09.24	Methamphetamine 180 grams
2.	1849/24	11.04.24	07.10.24	01.10.24 (173 rd day)	14.10.24	21.10.24	22.10.24	Nitratvet 10 mg – 2100 tablets (1.197 kgs) Tydel – 930 tablets (251 grams)
3.	1847/24	18.04.24	14.10.24	07.10.24 (173 rd day)	15.10.24	18.10.24	21.10.24	Ganja 32 Kgs
4.	2002/24	25.04.24	21.10.24	17.10.2024 (176 th day)	22.10.24	29.10.24	29.10.24	Nitratvet tablets 6870 tablets. Each tablet weighs 0.55mg, totally 3kg and 778.5gms

9. In all the above cases, as could be seen from the above column, the extension application was filed by the prosecution before the expiry of the statutory period.

10. In *Sanjay Dutt's case* [cited supra], the Constitutional Bench of the Hon'ble Supreme Court, had held in paragraph No.48 as follows:

“48...The Division Bench also indicated that if there be such an application of the accused for release on bail and also a prayer for extension of time to complete the investigation according to the



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proviso in section 20(4) (bb), both of them should be considered together.”

11. Following this judgment, the Hon'ble Supreme Court in

M.Ravindran's case [cited supra] held as follows:

“20.1.The observations made in Hitendra Vishnu Thakur v. State of Maharashtra ((1994) 4 SCC 602) and Sanjay Dutt v. State ((1994) 5 SCC 410) to the effect that the application for default bail and any application for extension of time made by the Public Prosecutor must be considered together are, in our opinion, only applicable in situations where the Public Prosecutor files a report seeking extension of time prior to the filing of the application for default bail by the accused. In such a situation, notwithstanding the fact that the period for completion of investigation has expired, both applications would have to be considered together. However, where the accused has already applied for default bail, the Prosecutor cannot defeat the enforcement of his indefeasible right by subsequently filing a final report, additional complaint or report seeking extension of time.”

12. From the above two judgments, it would be clear that the right of the accused to seek bail on the completion of the statutory period would be deferred, if an extension application is pending and as per the judgment of the Hon'ble Supreme Court, both the applications have to be considered together. However, in a subsequent judgment of the Hon'ble

Supreme Court in ***Judgebir Singh's case*** [cited supra], it is held as



follows:

“76....The only error or lapse on the part of the appellants Jasbir and Varinder Singh was that they failed to prefer an appropriate application seeking statutory/default bail on the 91st day. If such application would have been filed, the court would have had no option but to release them on statutory/default bail. The Court could not have said that since the extension application was pending, it shall pass an appropriate order only after the extension application was decided. That again would have been something contrary to the well settled position of law. This litigation is an eye opener for the NIA as well as the State investigating agency that if they want to seek extension, they must be careful that such extension is not prayed for at the last moment.”

13. The above observation would suggest that the Hon'ble Supreme Court held that notwithstanding the pendency of extension application, the Court could have released the accused on the expiry of the statutory period provided the accused has filed a bail application (in that case no bail application was however filed before the extension application is filed) and the State cannot say that since the extension application is pending, the bail application should not be considered.

14. Two of the learned Judges of this Court had taken a view following the judgment of the Hon'ble Supreme Court in *Judgebir*

Singh's case [cited supra] that notwithstanding the pendency of the



extension application, the right to obtain statutory bail accrues to the accused and therefore, released the accused on bail in *Ajith's case* [cited supra] and *Grant Victor Ikenna's case* [cited supra].

15. Two other learned Judges of this Court had taken a view that if the extension application is pending, the right to default bail does not accrue in *Sathish's case* [cited supra] and *Mathew's case* [cited supra].

16. The judgment in *Sathish's case* [cited supra] was passed prior to the judgment in *Judgebir Singh's case* [cited supra].

17. The learned Judge in *Mathew's case* [cited supra], had however not considered the judgment of the Hon'ble Supreme Court in *Judgebir's case* [cited supra].

18. Be that as it may, from the above discussion, it would be clear that the law on this aspect has been declared by the Constitutional Bench judgment of the Hon'ble Supreme Court, which is binding. Therefore, it is very clear that if an extension application is pending, the right of the accused to obtain default bail, would not accrue to the accused.



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19. The Full Bench of Calcutta High Court in *Subhas Yadav's case* [cited supra] had considered all the judgments and had issued certain directions on this aspect, which read as follows:

“31. In light of the aforesaid discussion, the issues are answered as follows:—

1. Right of an accused to statutory bail upon expiry of the period of detention prescribed under section 36A(4) of NDPS Act is an inchoate one till he avails of his right by seeking statutory bail either by way of an application or even orally. Hence, he cannot be released automatically on statutory bail on the mere expiry of 180 days even if the prosecutor has failed to submit report seeking extension of detention in terms of the proviso to section 36A(4) of the Act before expiry of the said period;

2. Order extending the period of detention under proviso to section 36A(4) of NDPS Act on a report of the Public Prosecutor submitted after expiry of 180 days but prior to the accused availing of his right does not envisage retrospective operation but the total period of detention under the aforesaid provision cannot exceed one year in the whole;

3 .As per Para 25.3 of M. Ravindran (supra) the right to statutory bail stands extinguished once the report of the Public Prosecutor seeking extension is filed. Hence, remand of the accused till the prayer of the prosecutor is disposed of is traceable to section 167(2) Cr. P.C. read with section 36A(4) of the NDPS Act. In the event, the application for extension is dismissed or an order extending detention is set aside by a superior court right to



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statutory bail revives in favour of the accused;

4. Upon expiry of 180 days of detention, Special Court as a cautionary measure ought to inform the accused (particularly if he is from an underprivileged section of society and is unrepresented by a counsel) of his right to statutory bail. However, failure to intimate the accused of his right by itself would not entitle him to statutory bail unless he avails of such relief;

5. Prayer for extension of period of detention must be on the basis of a report of Public Prosecutor which must record progress of investigation and spell out specific reasons to justify further detention beyond 180 days pending investigation;

6. Special Court on the basis of the report of Public Prosecutor and materials in support of such plea must be satisfied of the twin requirements, i.e., (a) there is appreciable progress in the investigation and (b) there are specific/compelling reasons to justify further detention pending investigation. Each case has to be decided on its own merits. For example, failure to complete investigation solely on the score of nonsubmission of FSL report of the samples drawn from the contraband is an institutional shortcoming. This by itself may not justify further detention pending completion of investigation. But if the aforesaid fact situation is coupled with compelling circumstances like complexities in investigation in an organized crime racket or inter-state/trans-border trafficking, criminal antecedents of the accused giving rise to possibility of recidivism, abscondence of co-accused, etc.,



constituting ‘specific reasons’ justifying further detention, the Court may be inclined to extend the period of detention and deny liberty;

7. Prayer for extension of period of detention must be decided at the earliest without undue delay preferably within 7 days from making such application. Reasons for adjournment must be specifically stated;

8. No written notice or copy of report of Public Prosecutor requires to be served upon the accused or his counsel but the accused or his counsel must be present personally or through video linkage at the time of consideration of the application. Accused and/or his counsel must be aware of such consideration and may raise objection, if any, with regard to compliance of mandatory requirements of law.”

20. This Court in *Varun and others v. State*, reported in (2024) SCC OnLine Mad 162 had directed the trial Courts to follow the guidelines or the directives issued by the Full Bench of the Calcutta High Court as regards the manner and time limit within which the extension application should be considered. Therefore, the directions issued by the Calcutta High Court is in effect the directions issued by this Court and hence, binding on all the trial Courts.

<https://www.mhc.tn.gov.in/judis> 21. In para 31(3) of the judgment of the Calcutta High Court, the



legal position that right to statutory bail stands extinguished once the application of the Public Prosecutor seeking extension is filed, is reiterated.

22. The Full Bench of the Calcutta High Court also held that the prayer for extension of period of detention must be decided at the earliest without undue delay and preferably within seven days from making such application and reasons for adjournment must be specifically stated. Paragraph No.31 sub clause 7 of the said judgment makes that very clear. The reason for the above direction is not far to seek. The indefeasible right of the accused cannot be denied by keeping the extension application pending for a long period of time.

23. Hence, it has to be seen whether, the above directives have been followed in the instant cases by the trial Court.

(i) In Crl.R.C.No.1885 of 2024, the extension application was filed on 30.08.2024 and was decided on 19.09.2024, which is in clear violation of the above directive.

(ii) Likewise in Crl.R.C.No.1849 of 2024, the extension application was filed on 01.10.2024 and was decided on 21.10.2024.

(iii) In Crl.R.C.No.1847 of 2024, the extension



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application was filed on 07.10.2024 and decided on 21.10.2024.

(iv) In Crl.R.C.No.2002 of 2024, the extension application was filed on 17.10.2024 and the order was passed on 29.10.2024.

24. Except for the accused in Crl.R.C.No.2002 of 2024, in all other cases, the extension application and the bail application were not considered together. This is also in violation of the directive of the Constitutional Bench judgment of the Hon'ble Supreme Court, which has been followed subsequently in *M.Ravindran's case* [cited supra] and which is incorporated in Full Bench judgment of the Calcutta High Court. It is needless to say that the decision in the bail application would be dependent on the decision in the extension application.

25. The right of the accused for statutory bail is indefeasible and when that right is sought to be denied, it has to be within the parameters laid down by the Courts and not by a casual approach. It is needless to say that the State and the Courts are bound to strictly comply with the directions of the superior Courts as to how the application for bail and application for extension of time limit for filing report have to be considered. As stated earlier, there is a clear violation of the direction



issued by the Constitutional Bench of the Hon'ble Supreme Court in not considering the extension application and bail application together in three of the four cases stated above. The extension applications were also not considered by the trial Court in an expeditious manner as directed by the Full Bench judgment of the Calcutta High Court.

26. The Full Bench of the Calcutta High Court had specifically stated that when an application for extension is filed, all that is required is the presence of accused or his counsel so that the accused is aware of such consideration and can raise an objection, if any, with regard to compliance of mandatory requirements of law. The relevant direction is contained in para 31 (8) of the said judgment. This direction is based on the observations made by the Hon'ble Supreme Court in *Sanjay Dutt's case* [cited supra], which reads as follows:

“53....(2)(a) Section 20(4)(bb) of the TADA Act only requires production of the accused before the court in accordance with Section 167(1) of the Code of Criminal Procedure and this is how the requirement of notice to the accused before granting extension beyond the prescribed period of 180 days in accordance with the further proviso to clause (bb) of sub-section (4) of Section 20 of the TADA Act has to be understood in the Judgment of the Division Bench of this Court in Hitendra Vishnu Thakur. The requirement of such notice to the accused before granting the extension for completing the investigation is not a written notice to the accused giving reasons therein. Production of the accused at that



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time in the court informing him that the question of extension of the period for completing the investigation is being considered, is alone sufficient for the purpose.”

27. In all these cases, the docket sheets reveal that the case was adjourned for filing of counter by the accused, which is not contemplated by the Hon'ble Supreme Court.

28. The above observations would indicate that request for extension by the prosecution and the report of the Public Prosecutor, is for the Court to consider based on the reasons assigned in the report. The presence of the accused is only to inform him about the extension of period and consider his objections, if any. Therefore, there is no necessity to call upon the accused to file a counter in the said application. All that the Court is required to consider is whether the report of the Public Prosecutor satisfies the twin requirements, namely:-

- (a) There is appreciable progress in the investigation.
- (b) There are specific compelling reasons to justify further detention pending investigation.

Therefore, the trial Courts are expected to follow the above directions without any deviation and consider the applications at the earliest and not later than seven days as directed by this Court in *Varun's case* [cited



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supra] following the Full bench judgment of the Calcutta High Court.

29. Coming to the facts of this case, it is seen that the trial Court had not disposed of the extension application and the bail application together as directed by the Constitutional Bench judgment of the Hon'ble Supreme Court and also had not considered the extension application in an expeditious manner. Since, there is a violation of the direction, this Court is of the view that the petitioners would be entitled to the statutory bail in all the cases., though in Crl.R.C.No.2002 of 2024, one of the directions viz., to consider the extension application and bail application together, has been followed.

30. As regards Crl.R.C.No.1847 of 2024, the challenge is to the order extending the period to file the final report. The report of the Special Public Prosecutor would state as follows:

“3. it is submitted that in the above case two more accused are still absconding and the investigation also spread to Andhra where the accused have confessed of purchasing the contraband and further A3 was arrested from Ichapuram, Andhra on the confession. It is further submitted that the source of the contraband and money transfer (Bank Statements) have to be enquired in detail. The source of the contraband and crucial documents pertaining to the



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CrL.RC.Nos.1847, 1849, 1885 and 2002 of 2024



investigation in the above case which required detailed analysis and interrogation of various persons has to be made.”

31. Here again, this Court is of the view that the above referred portion of the report only states that some of the accused are absconding and investigation is spread to another State and investigation has to be conducted in detail. The reasons given by the Special Public Prosecutor must be specific and compelling to justify further detention pending investigation. The Special Public Prosecutor is therefore required not only to state the stage of the investigation, but also to state as to why further detention is required for the purpose of completing the investigation. The reason for the same is not far to seek. The police have no time limit to file a final report. The very purpose of filing an extension application is to seek further detention. Therefore, the Public Prosecutor has to be specific as to why further detention is required due to the continuation of the investigation and if that is absent, the application under Section 36A(4) of the NDPS Act, cannot be allowed.

32. In the instant case, since the Public Prosecutor has not stated as to why further detention is required on account of the investigation, the impugned order passed by the learned Principal Special Judge under EC



and NDPS Act at Chennai in the petition filed under Section 167 (2) (Now under Section 187(3) of BNSS) in Crl.M.P.No.11896 of 2024 dated 29.10.2024, is liable to be set aside. Further, the other reason given by the Special Public Prosecutor is that the lab report is yet to be obtained cannot be the reason for seeking detention. Hence, the impugned order in Crl.R.C.No.1847 of 2024, extending the period of statutory period of investigation is set aside. Consequently, it is needless to say that since the order passed for the extension is set aside, the right to statutory bail revives and the petitioner is entitled to be released on bail.

33. Therefore, **these Criminal Revision Cases stand allowed** and the petitioners herein are ordered to be released on bail on the following conditions:

(i) Each of the petitioner shall execute 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 Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai;

(ii) The petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile



numbers to ensure their identity; and

(iii) The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m until further orders and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

34. (i) In conclusion, this Court reiterates that the trial Courts have to follow the directions issued by this Court in *Varun's case* [cited supra], to follow the guidelines issued by the Full Bench of the Calcutta High Court and any failure in not following the procedure prescribed, would amount to violation of the right of the accused and would result in grant of bail.

(ii) However, the observation made by this Court in *Varun's case* [cited supra] that the extension application and the statutory bail application cannot be considered together, may not be in consonance with the judgments of the Hon'ble Supreme Court in *Sanjay Dutt's case* [cited supra] and *M.Ravindran's case* [cited supra].

(iii) If an extension application is filed and pending, when the



statutory period for filing the final report comes to an end, then the trial Courts have to necessarily follow the directions issued by the Hon'ble Supreme Court as stated above i.e., to consider the application for extension and the bail application together. The decision in the bail application ofcourse would depend on the decision in the extension application.

(iv) The trial Courts shall also consider the extension application as expeditiously as possible and not later than seven days from making such application, as observed by the Calcutta High Court. As stated earlier and as observed by the Calcutta High Court, the notice to the accused in the extension application is to make the accused aware of the filing of the extension application and that it is being considered and therefore, there is no need to grant unnecessary adjournments on the request of the accused.

(v) However, this Court is also of the view that the police can be directed to file the extension application well in advance atleast fourteen days before the expiry of the statutory period, if the further detention of the accused is necessary for the investigation of the case, along with the report of the Public Prosecutor. If the said application is thereafter



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considered by the trial Court even before the statutory period, the accused could then have an option to challenge the said order and there would be no necessity to consider the extension application along with the bail application of the accused for default bail.

(vi) Only in extraordinary circumstances, the extension application filed within fourteen days before the expiry of the statutory period can be entertained by trial Court. The learned Public Prosecutor's report also must specify as to why extension application could not be filed fourteen days before the statutory period and only if the trial Court is satisfied, a belated (not filed within fourteen days before expiry of the statutory period) extension application can be entertained.

35. This Court records its appreciation for the valuable assistance rendered by Mr.E.Raj Thilak, learned Additional Public Prosecutor for his meticulous preparation, detailed analysis and placing all the relevant case laws on this subject.

27.11.2024

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.



Crl.RC.Nos.1847, 1849, 1885 and 2002 of 2024



Issue order copy by 03.12.2024
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To

1. The Principal Special Judge,
Principal Special Court under EC &NDPS Act,
Chennai.
2. The Inspector of Police,
Gummidipoondi, Prohibition Enforcement Wing,
Gummidipoondi,
Tiruvallur District.
3. The Inspector of Police,
H-8, Thiruvottiyur Police Station,
Chennai District.
4. The Inspector of Police,
T-1 Ambattur Police Station,
Tiruvallur District.
5. The Inspector of Police,
B-1, North Beach Police Station,
Chennai District.
6. The Public Prosecutor,
High Court, Madras.