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CRL OP (MD) No.1340 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated : 22.02.2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP (MD) No.1340 of 2024

Sathish

... Petitioner /
Accused No.5

Vs

The State represented by its
The Deputy Superintendent of Police,
NIB-CID, Madurai,
Madurai District.
[Crime No.32 of 2022]

... Respondent

For Petitioner : Mr.K.Prabakaran
For Respondent : Mr.M.Vaikkam Karunanidhi
Government Advocate (Crlside)

PETITION FOR BAIL Under Section 439 of CrPC.

For Bail in Crime No.32 of 2021 on the file of the
respondent.

ORDER : The Court made the following order :-

The petitioner is an accused No.5 in CC.No.304 of
2022, which is pending on the file of the Special Court
for NDPS Act and EC Act cases at Madurai. The petitioner



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has filed this criminal original petition seeking bail that all other accused in the criminal case has been enlarged on bail and he is alone languishing in jail from 10.08.2021, for more than 2 ½ years.

2.The learned Counsel for the petitioner submits that there is no recovery from this petitioner and a portion of the contraband was recovered from an autoriksaw from accused No.1 and based on his confession statement the remaining contraband was recovered from the sixth accused's house. The accused from whom the contraband was recovered were enlarged on bail and this petitioner alone is languishing in jail. This is the fourth bail application filed by this petitioner. He has also pointed out that this Court has granted bail to the accused Nos.7 and 11 and granted anticipatory bail to accused No.9 CrIOP(MD)Nos.5565 of 2022, 3770 of 2022 and 4343 of 2022 respectively.

3.The learned Government Advocate (CrI Side) appearing for the respondent Police submits that the earlier bail applications filed by this petitioner were



dismissed considering the gravity of the offence and there is no change of circumstances.

4.This Court considered the rival submissions and perused the materials placed on record.

5.The petitioner is accused No.5 and he was arrested on 10.08.2021. Considering the quantity of the contraband involved, this Court earlier dismissed the bail application in CrIOP(MD)No.14314 of 2022 by order dated 23.09.2022 and further considering the period of incarceration of the petitioner, this Court has directed the trial Court to conclude the trial within a period of six months from the date of receipt of a copy of the order.

6.It is reported that not even copies were furnished to the accused. There are 11 accused in this case and except the petitioner all other accused have been enlarged on bail. The accused are evading the trial by filing applications to condone their absence and the trial Court is also mechanically entertaining those applications



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without considering the directions issued by this Court vide order dated 23.09.2021.

7.The prosecution agency has also not taken any steps to remind the trial court of the directions issued by this Court to conclude the trial within a stipulated time. Therefore this Court has called for an explanation from the court concerned for not concluding the trial as directed by this Court and the explanation of the trial Court is placed before this court.

8.Considering this attitude of the trial judge and the prosecuting agency in not concluding the trial despite the directions of this Court, this Court is of the view that the trial would not be concluded in near future. Though final report was filed in the year 2022, not even copies were furnished to the accused and except this petitioner, all other accused were already enlarged on bail and there is no recovery from this petitioner, this Court, therefore is inclined to grant bail to the petitioner.



9. Accordingly this criminal original petition is allowed with the following conditions. The petitioner is directed to execute a bond for a sum of Rs.1,00,000/- (Rupees Two Lakh only) with two sureties for a like sum to the satisfaction of the learned Principal Special Court for NDPS Act and EC Act Cases, Madurai.

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

[b] the petitioner shall appear before the trial Court everyday at 10.30 am, until further orders;

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

[d] the petitioner shall not abscond either during the investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Judge is entitled to



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take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and they have been released on bail by the learned Judge 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 petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

10.Further, the final report in this case was filed in the month of April 2022. This Court by order dated 23.09.2022 has directed the trial Court to conclude the trial within a period of six months. A perusal of the dairy extract reveals that adjournments have been granted without having any concern for the directions issued by this Court. The trial Court received the order dated 23.09.2022 on 15.10.2022 and the trial ought to have been concluded by 14.04.2023. If there is any difficulty in concluding the trial, the trial Court should have requested for extension of time by filing necessary



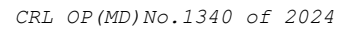
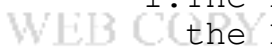
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application before this Court. Several circulars have already been issued by the High Court in this regard to all the courts. Even then the learned trial Judge has neither requested for extension of time as per the circulars nor had concluded the trial as directed by this Court.

11.In this case, 230 Kgs of contraband was recovered from the accused and pistols were also recovered. There is no progress in this case. However the trial court is provided one more opportunity and the trial Court is directed to conduct trial on a day to day basis and conclude the trial within a period of four months from the date of receipt of a copy of this order. Failure of complying with this direction, will be viewed seriously.

Internet : Yes
Index : Yes / No
dsk

22.02.2024



1. The Principal Special Judge,
the Principal Sub Court for
NDPS Act and EC Act Cases,
Madurai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4.The Superintendent,
Central Prison,
Madurai.



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B. PUGALENDHI , J

DSK

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