



Crl.R.C.(MD)No.503 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.10.2024

Pronounced on : 30.10.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.503 of 2024

Manikandan

... Petitioner

Vs.

The State by,
The Inspector of Police,
Silaiman Police Station,
Madurai District.
(Crime No.404 of 2023)

... Respondent

Prayer : This Criminal Revision Petition filed under Sections 397 r/w 401 Cr.P.C., to call for the records pertaining to the judgment in Crl.M.P.No. 727 of 2024 passed by Special Principal Court for EC & NDPS Act Cases, Madurai, Madurai District and set aside the same and enlarge the petitioner/accused no.1 on bail in connection with the case in Crime No. 404 of 2023 on the file of respondent police in C.C.No.117 of 2024 on the file of Special Principal Court for EC & NDPS Act Cases, Madura, Madurai District by allowing this criminal revision.



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For Petitioner : Mr.G.Karuppasamy Pandiyan
for Mr.R.Balamuruganantham

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)

ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.727 of 2024 dated 12.04.2024 on the file of the Principal Special Court for EC & NDPS Act Cases, Madurai, dismissing the application filed for statutory bail under Section 167(2) of the Code of Criminal Procedure.

2. The petitioner is the first accused in Crime No.404 of 2023 for the alleged offences under Sections 8(c) r/w 20(b)(ii)(C), 21 and 25 of NDPS Act on the file of the respondent police.

3. The case of the petitioner is that the petitioner was remanded to judicial custody on 05.10.2023, that the petitioner is in judicial custody since the date of remand, that the respondent police did not file the final report till the filing of the application, that since the offence punishable



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under Sections 8(c) r/w 20(b)(ii)(C), 21 and 25 of NDPS Act attract the sentence of life imprisonment, the investigating agency ought to have filed the final report within 180 days from the date of remand but till 03.04.2024 (182nd day) final report has not been filed and that therefore, the petitioner is entitled to get the relief provided under Section 36A(4) of NDPS Act. It is evident from the records that the Public Prosecutor has filed a reply stating that the prosecution had already filed charge sheet through e-filing on 28.03.2024 at about 11.56.08 hours itself and that since the prosecution had filed charge sheet within the stipulated time, the petitioner is not entitled to get the statutory bail. The learned Additional District Judge, after enquiry, has passed the impugned order dated 12.04.2024 dismissing the application. Challenging the dismissal of the statutory bail application, the present revision came to be filed.

4. The case of the prosecution is that on 04.10.2023 at about 18.30 hours, based on the secret information, the police party intercepted the suspects and found that the accused person have been in possession of 22.500 kgs of Ganja and that the contraband came to be recovered from the accused 1 and 2 including the petitioner and on that basis, FIR came to



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be registered against four persons including the petitioner.

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5. The learned counsel appearing for the petitioner would submit that the prosecution has shown that 14.00 kgs of Ganja has been recovered from the petitioner at the time of arrest, that the petitioner was arrested on 04.10.2023 and remanded to judicial custody on 05.10.2023, that the investigating agency has failed to file the final report within a period prescribed in the Code of Criminal Procedure and NDPS Act, that the investigating agency has filed the final report through e-filing mode with an intention to defeat the fundamental right of the petitioner and it is not at all deemed charge sheet since even a single paper has not been reached the Court website, that as per the records, final report reached the Court only on 06.04.2024 and as such, the case of the prosecution and the observation of the learned Additional District Judge that final report was filed on 28.03.2024 is absolutely wrong and bad in the eye of law and that since the statutory bail application has been filed even before the filing of the charge sheet, the petitioner is entitled to get the statutory bail.

6. When the matter was taken up earlier, considering the



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submissions made by the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent with regard to the date on which the charge sheet came to be filed before the jurisdictional Court, this Court directed the Registry to call for a report from the Principal Special Court for EC & NDPS Act Cases, Madurai and in pursuance of the same, the learned Additional District Judge has submitted a report dated 19.10.2024 stating that charge sheet was filed by the Silaiman Police Station in Crime No.404 of 2023 on 28.03.2024 at about 11.56.08 hours through E-Portal, that the counsel for the accused filed 167(2) Cr.P.C. petition only on 03.04.2024 after the expiry of 180 days and that the charge sheet was taken cognizance in C.C.No.117 of 2024 on the file of the Principal Special Court for EC & NDPS Act Cases, Madurai and the same was made over to the II Additional Special Court for Exclusive trial of cases under NDPS Act Cases, Madurai.

7. The learned counsel appearing for the petitioner would mainly rely on the e-Court status, wherein, it has been stated filing date as 09.04.2024 and registration date as 16.04.2024 and he would submit that



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charge sheet has been filed before the Principal Special Court for EC & NDPS Act Cases only on 06.04.2024 and thereafter the case was taken cognizance and was made over to the II Additional Special Court for Exclusive trial of cases under NDPS Act Cases, Madurai.

8. As rightly contended by the learned Government Advocate (Criminal Side), the case status produced by the petitioner is for the case registered in C.C.No.117 of 2024 and the same does not contain the filing of the charge sheet through E-Portal.

9. The learned Additional District Judge has relied on the decision of this Court in ***Varun and another Vs. State*** passed in ***Crl.O.P.No.901 of 2024 dated 01.02.2024***, wherein, while considering similar fact situation, a learned Judge has observed as follows:-

“18. The next judgement that was relied upon by the learned counsel for the petitioner in Achpal case was also a case where as on the 90 th day, there were no papers or charge sheet in terms of Section 173 of Cr.PC. Therefore, there was no occasion for the Magistrate to deal with the same and the indefeasible right accrued in favour of the accused under Section 167 (2) of Cr.PC and therefore, it



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was held that the accused person therein is entitled to be released on statutory bail.

19. The above two judgements that were relied upon by the learned counsel for the petitioner will not strictly apply to the facts of the present case. In the instant case, the e-filing platform is available to the prosecution to file the final report. This filing is officially recognized to be the date of filing of the final report. It is nobody's case that an incomplete final report was filed on 13.11.2023. It must also be noted that 13.11.2023 was a working day since it was Monday and therefore, the final report along with the materials had reached the e-filing portal of the Special Court. In this digital era, it is too late in the day to claim that the e-filing of the final report cannot be construed as the date of filing and it is only the physical availability of papers that should be construed as the actual date of filing. If this interpretation is given, all the efforts that are being taken by the Apex Court and the other High Courts in India to make the entire legal proceedings digital, will be defeated.

20. In the case on hand, it has to be construed that the final report along with the materials was available before the Court on 13.11.2023 and the Court below had applied its mind and taken cognizance on 15.11.2023 and



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the case was also numbered on the same day. Admittedly, the 180th day expired only on 15.11.2023. This factual scenario in the instant case, makes a huge difference when it is compared with the facts as found in the above two judgements referred by the learned counsel for the petitioner. The judgements that were relied upon by the learned Additional Public Prosecutor in Suresh Kumar case and SFIO case, referred supra makes it very clear that as per the scheme of Cr.PC, once the charge sheet is filed before the Court within the statutory period, that must be taken to be sufficient compliance with the provision under Section 167 of Cr.PC. It is immaterial as to whether cognizance of that final report was taken or not within the statutory period. This dictum laid down in the above two judgements will directly apply to the facts of the present case.

21. In the light of the above discussion, this Court does not find any merits to interfere with the written endorsement made by the Court below on 15.11.2023, returning the statutory bail application filed by the petitioner.”

10. Considering the above, in the present case, as already pointed out, charge sheet came to be filed through e-filing on 28.03.2024 itself,



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whereas, statutory bail application came to be filed only on 03.04.2024 and as such, the learned Additional District Judge has rightly come to a decision that the petitioner is not entitled to get the statutory bail and on that ground, dismissed the application. Hence, the impugned order cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

11. In the result, this Criminal Revision Petition is dismissed.

30.10.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Principal Special Court for EC and NDPS Act Cases,
Madurai.
- 2.The Inspector of Police,
Silaiman Police Station,
Madurai District.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
Crl.R.C.(MD)No.503 of 2024

Dated : 30.10.2024