

In the Court of the Judicial Magistrate Additional Mahila Court, Madurai.
Present: Tmt. P. Anuradha,B.A.,B.L.,
Judicial Magistrate Additional Mahila Court, Madurai.
Dated this the 02nd day of November 2020.

Cr.M.P. 5381 /2020

Karanthamalai S/o Muthukalai

--Petitioner/Accused.

/VS/

Sub Inspector of Police,
Nagamalai Pudukottai Police Station,
Cr.No.1912/2020
U/s. 341, 294(b), 354(A), 392, 397, 506(2) IPC
r/w 4 of TNPWH Act

-- Respondent.

This Bail Petition U/s 167(ii) Cr.P.C. is coming before me on this day filed by Thiru P.Prabhu for Petitioner. Heard. Perused the records and this court passed the following.

ORDER

Heard. Perused. The Petitioners/Accused were prosecuted for an offence U/s. 341, 294(b), 354(A), 392, 397, 506(2) IPC r/w 4 of TNPWH Act . The counsel for the Petitioners/Accused have filed the petition u/s.167(2) Cr.P.C. praying for release of the accused on bail.

The counsel for the Petitioners/Accused have argued that, the Petitioners/Accused were remanded in judicial custody from 02.08.2020. Till date the prosecution has not completed the investigation and filed any final report.

On the perusal of records, it is found that accused is under Judicial Custody from 02.08.2020. Also charge sheet is not at filed in this case. As per the citation of Honble High Court in "Rajnikan Jivanlal V. Intellegence Officer, Narcotic central Bureau, New Delhi(1989)3 S.C.C.532 at 536 என்ற தீர்மானத்தில் " An order for release on bail under provico(a) to section 167(2) may appropriately be termed as an order on default. Indeed, it is a release on bail on default of the prosecution in filing charge sheet within the prescribed. The right to bail under section 167(2) proviso(a) there to is absolute. It is a legislative command and not courts discretion. If the investigating agency fails to file charge sheet before the expiry of 90/60 days, as the case may be the accused in custody should be released on bail. But at that stage, merits of the case are not to be examined, not at all. In fact the Magistrate has not power to remand a person beyond the stipulated and communicate the same of the accused to furnish" and also 167 (ii) Cr.P.C. says that,

” The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case. from time to time, authorise the detention of the accused in such custody to such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that -- (a) The Magistrate may a authorise the detention of the accused person. otherwise than in the custody of the police, beyond the period of fifteen days. if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceedings,

(i) Ninety days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years, " hence the accused is entitled for bail U/s167(2)(a)(i) and this court is inclined to enlarge the accused on bail U/s 167(2)(a)(i).

Considering the facts and circumstances of the case, accused is in Judicial Custody for the past 93 days, and also in the interest of justice, I am inclined to enlarge the petitioner on bail on the following conditions.

1. The Petitioner / accused is directed to execute own bond for sum of Rs.10,000/-to the satisfaction of The Jail Superintendent, Central Prison, Madurai.
2. The Petitioner / accused shall surrender before this court and execute bond along with two sureties for Rs. 10,000/- each to the satisfaction of this court within a period of 15 days after the withdrawal of Lockdown.
3. The Petitioner / accused shall appear and sign before respondent police station daily at 10.00 A.M and evening 5.30 P.M until further orders after the withdrawal of lockdown.

**Sd/-P.Anuradha,
Judicial Magistrate,
Additional Mahila Court, Madurai.**

Copy to:

The Jail Superintendent,
Central Prison, Madurai.