

In the Court of Chief Judicial Magistrate/Special Judge for Prevention of Corruption Act Cases, Dindigul.

Present : Tmt J. Mohana, M.L.
Special Judge for Prevention of Corruption
Act Cases(Chief Judicial Magistrate), Dindigul.

Tuesday, this the 06th day of February 2024

Cr.M.P.No. 1587/2024

Ankit Tiwari, age 37/2023
S/o. Rajendrakumar Tiwari,
Enforcement Officer,
Enforcement Directorate,
Sub-Zonal Office, Madurai.

.. Petitioner/Accused

/ vs /

The State Thro D.S.P. of Police,
Vigilance and Anti corruption, Dindigul
Crime No. 06/2023

.. Respondent/Complainant

This bail petition is coming on 06.02.2024 for hearing before me in the presence of Thiru. A.Selvam, Counsel for the petitioner/accused and Tmt. R. Anuradha, Special Public Prosecutor for the Respondent/ complainant and upon hearing the arguments of both sides and perusing the records, this Court doth the following

ORDER

This petition has been filed by the petitioner/accused u/s. 167(2) Cr.P.C. to released on bail.

2) The learned counsel for the petitioner would submit that the petitioner was arrest for alleged offences under Section 7 (a) of Prevention of Corruption Act 1988 as amended Act 2018 and remanded to Judicial Custody on 01.12.2023. For the past 61 days he is in custody.

3) The petitioner submits that the case of the prosecution is that the petitioner / Accused has been working as Enforcement Officer in Enforcement Directorate Authority under the Government of India. The petitioner / accused is in custody from 01.12.2023 to 29.01.2024. As per section 167(2) Cr.P.C reveals that I) ninety days, where the investigation related to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years: ii) sixty days, where the investigation relates to any other offence. And on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail. The petitioner/ accused submitted that the prescribed period no charge sheet has been filed by respondent police. Hence, the petitioner / accused is eligible to seeking bail u/s.167(2) Cr.P.C. if this petition will be allowed no prejudice caused to Respondent police . It is submitted that the Director of Enforcement Department has filed change of investigation petition before Hon'ble Supreme Court was pleased to passed order on 25.01.2024 that, further investigation in FIR No.6/2023 dated 30.11.2023 registered at DV & AC P.S. Dindigul shall remain stayed. Similarly, the Directorate of Enforcemet will also not proceed with the investigation in the above mentioned FIR. He will not tamper with the prosecution witnesses/ Therefore, he prays to release the petitioner on bail.

4) Per contra, Additional Public Prosecutor, Vigilance and Anti Corruption Act filed a reply stating that the earlier bail petition was dismissed on 05.12.2023 by this court. The petitioner / accused bail petition filed by the Hon'ble Madurai Bench of Madras High Court was dismissed on 20.12.2023, on the grounds that, if bail is allowed, investigation would be hampered, hence this court is not inclined to grant bail to the petitioner. Further, a petition filed by the Enforcement Directorate before this Court in CrI.M.P.No.58/2024 seeking

permission to examine the accused u/s. 50(2) of Prevention of Money laundering Act 2002 was dismissed by this court on 12.01.2024, on the grounds that the Enforcement Directorate has given only a very vague reason for enquiring the accused in the prison and has not shown any strong cause to enquire the accused. Further, that the investigation of Crime No.06/2023 on the file of Respondent Police was stayed by Hon'ble Apex Court based on the order passed on 25.01.2024. Hence, the statutory period fixed u/s.167(2) Cr.P.C for completing investigation shall not apply and the petitioner/accused cannot claim the bail as a mandatory one and that inconsonance with the observation of the Hon'ble Apex Court, continued judicial custody of the petitioner/accused is necessary for proper investigation of this case, to prevent the accused from causing the evidence of the offence to disappear or tampering with such evidence in any manner and also to prevent the accused from making any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him from disclosing such facts to court to investigating officer. Therefore, for the reasons stated above, prosecution strongly object to release the accused on bail.

5) Heard both side. Petitioner has filed the bail petition claiming right under statutory bail. Admittedly if no charge sheet is filed without any reasonable cause for sixty days from the date of arrest, bail to be granted u/s.167(2) Cr.P.C. Hence, the date of arrest is on 01.12.2023. On 25.01.2024 stay was granted by the Hon'ble Supreme Court of India.

6) The date of stay falls on 55th day from the date of arrest subsequent to the stay the respondent could not make further investigation due to which charge sheet could not be filed for not completing the full investigation. This is the main objection made by the respondent.

The petitioner has cited authorities in support of his argument. This court has ample power to release the accused on statutory bail u/s.167(2) Cr.P.C. This court cannot have power more than the statute. This court could not see the above mentioned authorities cited by the petitioners are relevant to this case.

7) Considering the arguments on both side, the statutory bail u/s.167(2) Cr.P.C. would be applicable only if the sixty days period from the date of arrest had gone without any reasonable cause After the 55th day the respondent is restraint by the Hon'ble Supreme Court of India from going for further investigation. Hence, the further proceedings is stalled. Hence, the reason and argument on the side of respondent Vigilance and Anti-Corruption, Dindigul seemed to this court is valid. Hence, this petition by the petitioner is dismissed.

8) In the result, this Petition is dismissed.

Order Pronounced by me in open court this the 06th day of February 2024.

Special Judge for Prevention of Corruption
Act Cases(Chief Judicial Magistrate),
Dindigul.