

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.08.2019

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

Criminal Appeal No. 661 of 2018

Kalai @ Kalailingam

..Appellant/Accused

Vs.

State rep by:

The Deputy Superintendent of Police,
National Investigation Agency,
Hyderabad (Camp at Puducherry),
(R.C. No. 1/2014/NIA/HYD)

..Respondent/Complainant

Prayer: Criminal Appeal filed Under Section 21 of NIA Act to call for the records in CrI.M.P. NO. 2045 of 2018 in SPL SC 5/14 dated 09.10.2018 on the file of Special Court for NIA cases, at Puducherry and set aside the same.

For Appellant :: Mr.M. Radhakrishnan
for Mr.P. Pugalenthir

For Respondent :: Mr.R. Karthikeyan
Special Public Prosecutor

J U D G M E N T

(Judgment of the Court was delivered by N. KIRUBAKARAN, J.)

This appeal has been filed as against the order passed by the Special Court for NIA Cases, Puducherry dated 09.10.2018 by which the prayer for bail sought by the appellant was rejected by the said Court.

2. The case of the prosecution is that the appellant and five others, pursuant to the conspiracy hatched by them on 29.01.2014, planted pipe bombs near the house of Ex-Central Minister Thiru.V. Narayanasamy beneath the car and attempted to commit his murder and thereby indulged in unlawful activities.

3. According to the appellant, he has been in jail for more than 350 days. The investigation has already been completed and therefore, he sought bail. The Special Court for NIA cases, Puducherry, dismissed his bail petition by the impugned order. Hence, the present appeal.

4. Heard Mr.M. Radhakrishnan, learned counsel for the appellant and he would submit that the final report has already been filed. According to him, the appellant has been falsely implicated and he has been in jail for more than 350 days and that his custody is not warranted. He would rely upon the judgment of the Honourable Supreme Court in Sanjay Kumar Kedia Alias Sanjay Kedia V. Intelligence Officer, Narcotics Control Bureau and another, reported in (2009) 17 SCC 631 to contend that the maximum period of 90 days fixed under the Code of Criminal Procedure could be increased to 180 days for several categories of offences and further period of detention can go only upto one year whereas in this case, the appellant has been in custody for more than 350 days.

5. On the other hand, Mr.R. Karthikeyan, learned Special Public Prosecutor would submit that the matter is posted for trial and most of the witnesses have been examined and the case is posted for examination of prosecution witnesses. That being so, if the appellant is released on bail, then there are chances of his absconding and the conduct of trial would get affected. Therefore, according to him, the Trial Court was right in rejecting the bail application of the appellant.

6. Heard the parties and perused the records.

7. The offence alleged against the appellant and others are commission of series of unlawful acts and many cases are said to be pending against them. The Trial has already commenced and examination of the witnesses is also going on. Considering the gravity of the offence committed and also the antecedents of the appellant, this Court is not inclined to interfere with the order passed by the Trial Court. Accordingly, the appeal fails and the same is dismissed.

8. As far as the judgment relied on by the learned counsel for the appellant reported in (2009) 17 SCC 631 is concerned, the said matter relates to Narcotic Drugs and Psychotropic Substances Act, 1985 and there is a specific provision under Section 36-A(4) of the said Act which authorises further period of detention of the accused which may in total go upto one year, provided the stringent conditions mentioned therein are satisfied and are complied with and in the absence of compliance, bail was granted in

the said case. However, the said judgment will not apply to the facts of this case.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nv

To

1.The Special Court for NIA cases, Puducherry.

2. The Deputy Superintendent of Police,
National Investigation Agency,
Hyderabad (Camp at Puducherry)

3.The Public Prosecutor,Pudhucherry.

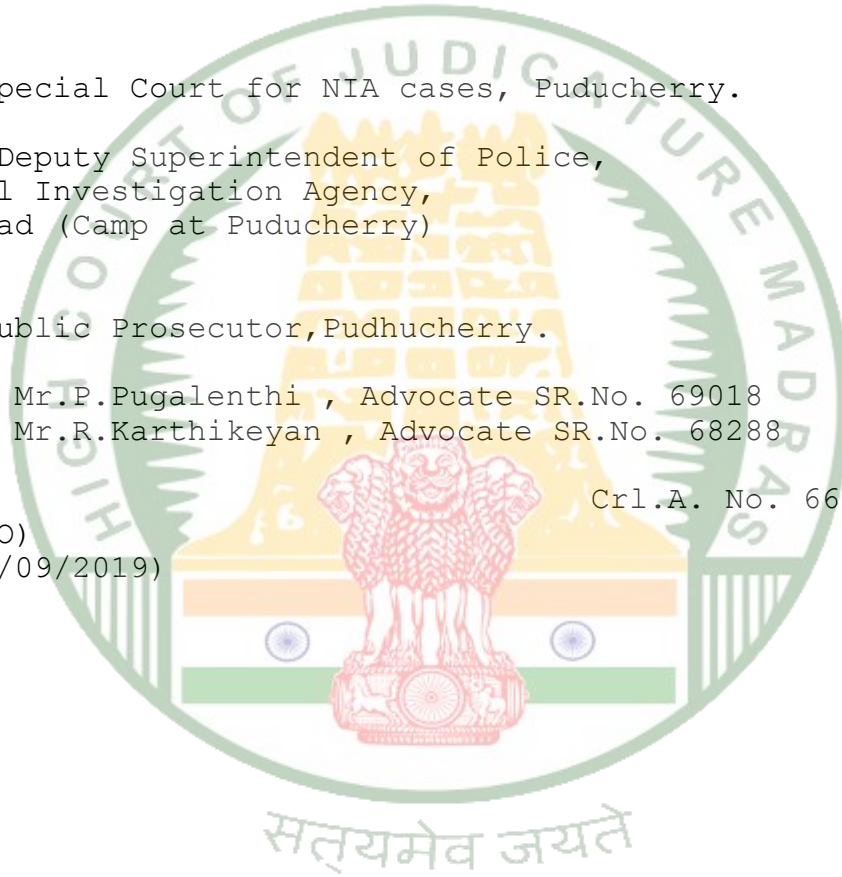
+1cc to Mr.P.Pugalenthil , Advocate SR.No. 69018

+1cc to Mr.R.Karthikeyan , Advocate SR.No. 68288

CrI.A. No. 661 of 2018

sv (CO)

A.SK(06/09/2019)



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