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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.12.2021

PRONOUNCED ON : 03.02.2022

CORAM

THE HONOURABLE Mr. JUSTICE P.N.PRAKASH
AND

THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

Crl.A.No.417 of 2021

Sathya Mary @ Padma ... Appellant/Petitioner
Accused

Vs.

State represented by
Deputy Superintendent of Police
"Q" Branch CID, Dharmapuri,
Uthangarai Police Station. ... Respondent/Respondent /

Complainant

Criminal Appeal filed under Section 34 (4) of POTA Act praying to set aside the order passed in Crl.M.P.No.211 of 2021 in Spl.C.C.No.5 of 2003 dated 05.08.2021 on the file of the Special Court under the Prevention of Terrorism Act (POTA), 2002 (Sessions Court for Exclusive Trial of Bomb Blast Cases), Poonamallee, Chennai.

For Appellant : Mr. R.Sanakarasubbu
For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor.

J U D G M E N T

P.N.PRAKASH, J.

The present criminal appeal is filed against the order dated 05.08.2021 in Crl.M.P.No.211 of 2011 in Spl.C.C.No.5 of 2003, wherein the bail petition of the appellant was dismissed by the Special Court for Exclusive Trial of Bomb Blast Cases, Poonamallee, Chennai (hereinafter called as "Special Court").

2. The appellant is an accused in Spl.C.C.No.5 of 2003 before the Special Court for the offences punishable under Sections 148, 333, 307, 333 IPC read with Section 149 IPC, Section 307 IPC read with Section 149 IPC and Section 120-B IPC read with Section 3(2)(b) of the Prevention of Terrorism



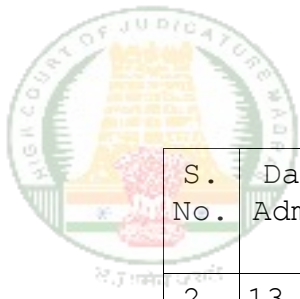
Act, 2002, Section 25(1B)(a) of the Arms Act, 1959 and Sections 3(3), 3(5), 4(b) and 22(1) of the Prevention of Terrorism Act, 2002. Though the appellant was enlarged on bail on 28.04.2005 with certain conditions by this Court, the appellant absconded in 2009 and ultimately, her bail was cancelled by an order dated 20.01.2017 in Cr.L.M.P.No.3631/2016, followed by initiation of action under Sections 446-A and 82 Cr.P.C. The sureties were discharged after payment of penalty and when the proclamation proceedings under Section 82 Cr.P.C. were pending, the appellant surrendered on 07.12.2018 before the Special Court and was remanded in judicial custody.

3. Mr.Sankarasubbu, learned counsel for the appellant contended that the appellant is sick and bedridden and is unable to do her daily routine without the help of others. He would further contend that the appellant has been in judicial custody since 2018 and therefore, prayed for enlarging her on bail.

4. Per contra, Mr.R.Muniyapparaj, learned Additional Public Prosecutor contended that the appellant went underground from the year 2009, though she was granted bail by this Court. He further contended that despite prolonged efforts, she could not be secured and only after the proclamation proceedings under Section 82 Cr.P.C., the appellant surrendered on 07.12.2018. He therefore prayed for dismissal of the present appeal.

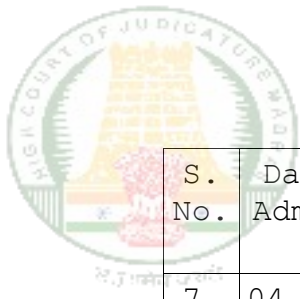
5. A perusal of the report dated 04.10.2021 of the Medical Officer, Prison Hospital, Special Prison for Women, Puzhal, Chennai - 600 066 shows that the appellant was admitted in Stanley Medical College Hospital, Omandurar Multispeciality Hospital and Egmore Eye Hospital as detailed hereunder :

S. No.	Date of Admission	Date of Discharge	Reason for Referral	Diagnosis & Rx given	Discharge Advice
1.	10.12.2018	13.12.2018	Sinus Bradycardia	SHT / euthyroid / old / SVT / GERD / MGE opinion & Cardiologist opinion obtained. Details enclosed	Bland Diet



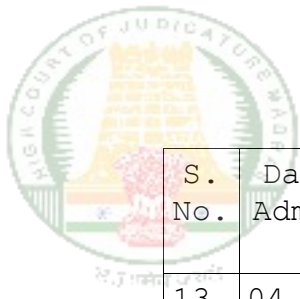
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S. No.	Date of Admission	Date of Discharge	Reason for Referral	Diagnosis & Rx given	Discharge Advice
2.	13.12.2018	15.12.2018	Supraventricular tachycardia	SVT / Hypothyroidism / SCT - AVNRT	Review in cardiology OPD Advised to attend Omandurar Multispeciality Hospital for EPS Study. Details Enclosed.
3.	20.12.2018	24.12.2018	Drug induced QTC prolongation	Old SVT / Systemic hypertension / Hypothyroidism Cardiologist (o), Neurologist (o) & Psychiatrist (o) obtained. Details Enclosed.	
4.	20.12.2018	24.12.2018	Cardiologist Opinion Stanley Govt. Hospital	Non Specific chest pain Troponin I- Negative CKMB - Negative Echo : No RWMA Normal LV Systolic function, stable cardiac status.	
5.	20.12.2018	24.12.2018	Neuromedicine Opinion Stanley Govt. Hospital	Non organic gait Abnormality CT Brain (N)	
6.	20.12.2018	24.12.2018	Psychiatrist Opinion Stanley Govt. Hospital	No overt Psychopathology at present.	



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S. No.	Date of Admission	Date of Discharge	Reason for Referral	Diagnosis & Rx given	Discharge Advice
7.	04.01.2019	07.01.2019	Omandurar Multi Speciality Hospital	SVT-EPS & PFA not indicated cardiologist (O) Neurophysician (O) obtained	Get follow up from Stanley Govt. Hospital
8.	02.02.2019		Neuro Physician Opinion Stanley Govt. Hospital		
9.	04.04.2019	09.04.2019	Chest pain RBB	SHTN/ old SVT/ Hypothyroidism / Aypical chest pain Endocrinologist (o) orthopedical (o) obtained. physiotheraphy given. OGD scopy done. Details enclosed	Cardiology OPD SOS Stanley Hospital
10.	04.04.2018	09.04.2019	Cardiology Opinion Stanley Govt. Hospital	ECG - No ST -T Charges Echo - No RWMA (N) LV Systolic function. EF - 62% No MR/TR Stable Cardiac status	
11.	04.04.2019	09.04.2019	MGE opinion Stanley Govt. Hospital	Lax LES, otherwise Normal study	
12.	04.04.2019	09.04.2019	Medicine Opinion Stanley Govt. Hospital	Non Cardiac Chest pain Musculoskeletal pain	



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S. No.	Date of Admission	Date of Discharge	Reason for Referral	Diagnosis & Rx given	Discharge Advice
13.	04.04.2019	09.04.2019	Orthopaedic Opinion Stanley Govt. Hospital	Lumbar Spondylosis Spinal muscle strengthening exercises	
14.	20.04.2019	23.07.2019	Opthalmologist Opinion. Govt. Eye Hospital, Egmore	C/o. defective vision Malingering tets positive, advised glasses	
15.	17.07.2019	23.07.2019	Cardiology opinion Stanley Govt. Hospital	Echo No RWMA @ CV Eystolui frimitia ECG - No Signifiant ST-T changes	
16.	21.09.2019	23.09.2019	Cardiology Govt. Stanley Hospital	Recurrent SVT Advised T.Varapamil 40 mg 1-1-1- T.Metaprolol 50 mg 1/2-0-0 T.Diazepam 0-0-1	
17.	26.11.2019 (OPD)		Cardiology review Govt. Stanley Hospital	Echo-No RWMA Normal CVEF 60% No MR/TR/VSD Normal Valvular function.	

She was also given counselling by a Psychologist for complaint of sleep disorder and for her abnormal behaviour in the prison. According to the Medical Officer, the appellant was not cooperating with the doctors and also refused to take life saving drugs and even food.

6. On an earlier occasion, the bail petition filed by the appellant in Crl.M.P.No.533 of 2018 was dismissed by the Special Court on 20.12.2018 and Crl.A.No.870 of 2018 was also dismissed by this Court on 03.04.2019. Subsequently another bail petition in Crl.M.P.No.29 of 2020 was dismissed on 28.10.2020 by the Special Court and the appeal in Crl.A.No.17 of 2020 was dismissed by this Court on 17.03.2021.

<https://hcservices.ecourts.gov.in/hcservices/> is true that the appellant absconded from the



year 2009 and surrendered before the Special Court only on 07.12.2018. It is the contention of Mr.R.Sankarasubbu that during the period of abscondance also, there is no material to show that the appellant was involved in any offence.

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8. The appellant is accused of being a Maoist, wedded to violence, as a means to bring about a political change. Now the question is, if the appellant continues to believe in this ideology, would it be appropriate for this Court to release her on bail and allow her to unleash violence on the instrumentalities of the State. The Indian State now rests on the Constitution of India drafted by a committee of noble men headed by Dr.B.R.Ambedkar.

9. According to Mr.R.Sankarasubbu, the appellant has turned over a new leaf and that is why she surrendered in the Court in the year 2018. We trust the words of Mr.R.Sankarasubbu and hope that the appellant would abjure all forms of violence.

10. We are also alive to the fact that in matters, in which, people wedded to a certain ideology like the appellant herein are involved, they would do everything possible to prevent the conduct of the trial, which will not be known to the outside world or to the press. Even in this case, the Special Judge, with great difficulty, after consulting both sides, fixed a calendar for completing the trial. On the day when PW1 was to be examined, the Advocate for the accused withdrew his memo of appearance and successfully prevented the Special Judge from conducting the trial. However, on account of the dilatory tactics adopted by them, evidences would disappear, eventually leading to their acquittal. At that time, there will be a hue and cry saying that the system, without any material thereof, had kept the person in prolonged incarceration. This is the bane of our present day criminal justice system and we have to grudgingly endure it. Despite all this, we are inclined to grant bail to the appellant because of her health condition as well taking into consideration the fact that she had voluntarily surrendered in the year 2018 and has been in incarceration for over three years since then. Therefore, we are applying a soothing balm, in order to give her an opportunity to reaffirm her allegiance to the Constitution of India.

11. The appellant shall file a sworn affidavit in Tamil affixing her signature and thumb impression before the trial Judge stating:

(a) that she owes faith and allegiance to the Constitution of India and that she does not believe in Maoism;

(b) that she does not believe in violence as an ideology; and



(c) that she would do nothing to subvert the Constitution of India.

On the appellant filing such an affidavit before the Special Court, the appellant shall be enlarged on bail on her satisfying the following conditions :

- i. The appellant shall execute a bond for a sum of Rs.25,000/- with two sureties for like sum each to the satisfaction of the Special Court for Exclusive Trial of Bomb Blast Cases, Poonamallee, Chennai. The appellant should furnish her permanent address and shall inform the trial Court and the respondent about any change in her address.
- ii. The sureties should be the blood relatives of the appellant and they shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court may obtain a copy of their Aadhaar card or Bank pass book and mobile numbers to ensure their identity.
- iii. She shall appear before the Special Court daily at 10.30 a.m. and sign until further orders.
- iv. If the appellant adopts any dilatory tactics during trial, it is open to the Special Court to cancel her bail and remand her to custody as laid down by the Supreme Court in State of U.P. Vs. Shambhu Nath Singh (2001) 4 SCC 667. Though bail has been granted by this Court, as held by the Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) 13 SCC 283], the Special Court can cancel the bail, if situation warrants. If the appellant absconds, a fresh FIR shall be registered against her under Section 229-A IPC.

Sd/-

Assistant Registrar (CCC)

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Sub Assistant Registrar

mtl/gya

To

1. The Deputy Superintendent of Police
"Q" Branch CID
Dharmapuri



2. The Judge
Special Court under the POTA
(Sessions Court for Exclusive Trial of Bomb Blast Cases)
Poonamallee, Chennai

3. The Public Prosecutor
High Court, Madras

4. The Section Officer
Criminal Section
High Court, Madras.

5. The Superintendent
Special Prison for Women
Puzhal, Chennai

+1cc to Mr.R.Sankarasubbu, Advocate SR.No.7297(10/03/2022)

Crl.A.No.417 of 2021

NMI (CO)
GN(03/02/2022)