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Crl.A.No.639 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and
The Hon'ble Mr. Justice **R.SAKTHIVEL**

Crl.A.No.639 of 2023

Suresh @ Suresh Vijaya Rajan
S/o.Rajan

... Appellant

-VS-

The State rep. by
The Inspector of Police,
Deevattipatty Police Station
Salem
(Cr.No.14 of 2020)

... Respondent

Criminal Appeal filed under Section 21 of NIA Act against the order in
Crl.M.P.No.565 of 2023 dated 02.03.2023 on the file of the Principal
Sessions Judge, Salem.

For Appellant	..	Mr.R.Sankara Subbu
For Respondent	..	Mr.R.Muniyapparaj Additional Public Prosecutor



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JUDGMENT

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[Judgment of the Court was made by M.SUNDAR, J.]

Captioned Criminal Appeal has been filed in this Court under Section 21 of 'National Investigation Agency Act, 2008 (Act 34 of 2008)' which shall hereinafter be referred to as 'NIA Act' for the sake of brevity, convenience and clarity, assailing an order dated 02.03.2023 made in Crl.M.P.No.565 of 2023 on the file of 'Principal Sessions Judge, Salem' [hereinafter 'Salem Sessions Court' for the sake of convenience].

2. Short facts shorn of details that are not imperative for appreciating this order are that the appellant is one of the accused in Crime No.14 of 2020 on the file of Deevattipatty Police Station within the jurisdiction of Judicial Magistrate, Omalur; that the appellant on 19.08.2021 sought default bail under Section 167 (2) of 'The Code of Criminal Procedure, 1973 (2 of 1974)' [hereinafter 'Cr.P.C' for the sake of brevity and clarity] in Crime No.14 of 2020 vide.C.M.P.No.2896 of 2021; that the default bail plea was acceded to by the Salem Sessions Court in and by an order dated 25.08.2021 imposing five conditions but we are now concerned with only



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Condition No. 3 thereat which reads as follows:

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'60. that the petitioner shall report and sign before the respondent / police daily at 10.00 a.m, until further orders and on further condition that he shall make available himself for interrogation as and when required by the Investigation Officer.'

that the appellant in and by Crl.M.P.No.565 of 2023 moved the Salem Sessions Court *inter alia* under Section 439 (1)(b) of Cr.P.C with a prayer to modify this condition No.3; that by an 'order dated 02.03.2023, the Salem Sessions Court dismissed the modification petition' [hereinafter 'impugned order' for the sake of convenience]; that assailing the impugned order, captioned statutory appeal under Section 21 of NIA Act has been filed in this Court.

3. Mr.R.Sankarasubbu, learned counsel for appellant submitted that the appellant has been implicated in another case namely C.C.No.3 of 2021 on the file of 'Special Court under the National Investigation Agency Act, 2008 (Sessions Court for Exclusive Trial of Bomb Blast Cases), Chennai at Poonamallee' [hereinafter 'Chennai NIA Court' for the sake of convenience]; that the appellant moved for bail unsuccessfully before Chennai NIA Court; that the appellant carried it by way of another statutory appeal vide



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Crl.A.No.157 of 2022; that this criminal appeal was allowed by another Hon'ble Division Bench of this Court in and by an order dated 22.04.2022 imposing certain conditions but we are now concerned only with Condition No.(c), which reads as follows:

'(c) Suresh Rajan (A2) shall appear before the Special Court daily at 10.30 a.m and sign until further orders;'

that as this condition No.(c) was being complied owing to which aforementioned Condition No.(3) imposed by the Salem Sessions Court could not be complied with and that putting this against the appellant, the impugned order has been made. To be noted, the operative portion of the impugned order reads as follows:

'In the stated circumstances, considering the fact that as per the condition imposed by this Court on the petitioner in C.M.P.No.2896 of 2021 dated 25.08.2021, the petitioner has abided the condition only for two days on 08.11.2022 and 09.11.2022, subsequently he failed to abide the condition, hence I am not inclined to consider the plea of the petitioner'

4. In response to the above, learned Prosecutor submitted that there are two sets of bail conditions and it would be desirable that the appellant complies with the condition imposed by this Court as regards Chennai NIA



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Court i.e., Condition No.(c) but it is imperative that appellant cooperates with the investigation as regards Crime No.14 of 2020 which is subject matter of Salem Sessions Court.

5. The point in captioned appeal is fairly simple. There are two bail orders, one made by the Salem Sessions Court and another by a Hon'ble Division Bench of this Court. While the Salem Sessions Court's bail order imposes a condition that the appellant should go before Deevattipatty Police Station in Salem District daily by 10.00 a.m (order dated 25.08.2021), order made by Hon'ble Division Bench earlier on 22.04.2022 imposes a condition that appellant should go before NIA Special Court in Chennai daily. Obviously the two cannot be complied with considering the distance between two Courts and the time. We are informed that the distance is in the region of 360 kms. Therefore, the ground on which learned judge of the Salem Sessions Court has negated the modification petition is clearly unacceptable and deserves to be interfered with. To be noted, we have extracted and reproduced the operative portion supra.



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6. In the light of the narrative, discussion and dispositive reasoning

supra, the following order is made:

i) Captioned Criminal Appeal is allowed and the impugned order made by Salem Sessions Court being order dated 02.03.2023 made in Crl.M.P.No.565 of 2022 is set aside;

ii) Appellant shall continue to comply with all the conditions for bail imposed by another Hon'ble Division Bench in and by order dated 22.04.2022 in Crl.A.No.157 of 2022;

iii) Appellant shall cooperate with investigation qua Deevattipatty Police Station as regards Crime No.14 of 2020 i.e., by responding to summons as and when issued.

Captioned criminal appeal allowed and ordered on above terms.

(M.S.J.) (R.S.V.,J.)
28.06.2023

Index:Yes/No

Neutral Citation : Yes/No

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To

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1. The Inspector of Police,
Deevattipatty Police Station
Salem
2. The Public Prosecutor,
High Court of Madras,
Chennai – 104.



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**M.SUNDAR, J.
and
R.SAKTHIVEL, J.**

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