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CRL.A.No.399 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.A.No.399 of 2024

Letchumanan Mary Franciska

... Appellant

Vs.

1.Union of India,
Represented by
The Inspector of Police,
National Investigation Agency,
Chennai.
(RC/02/2022/NIA/DLI)

2.The Superintendent of Prisons,
Central Prison-III, Puzhal.

... Respondents

[R2 Suo-motu impleaded as per order dated
05.06.2024 made in Crl.A.No.399/2024]

Prayer: Criminal Appeal filed under Section 21 of National Investigation Agency Act, 2008, to call for the records pertaining to Crl.M.P.No.2361 of 2023, on the file of the Special Court under the National Investigation Agency Act, 2008, (Sessions Court for Exclusive Trial of Bomb Blast Cases)



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Chennai at Poonamallee dated 15.12.2023, set aside the same and enlarge the appellant on bail in RC/02/2022/NIA/DIL on the file of the respondent police.

For Appellant	: Mr.Gokul Ram For Mr.R.Prasadh
For R1	: Mr.R.Karthikeyan Special Public Prosecutor [For NIA] Assisted by Mr.G.Siddi Ramulu Senior Public Prosecutor [For NIA]
For R2	: Mr.S.Rajakumar Additional Public Prosecutor

J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The criminal appeal on hand has been instituted to assail the order dated 15.12.2023 in Crl.M.P.No.2361 of 2023 in Spl.S.C.No.1 of 2022 in R.C.No.02/2022/NIA/DIL.

2. The allegations set out against the appellant are that she came to India on 16.12.2019 using her Sri Lankan Passport N8308158 (valid only till 10.05.2019 to 10.05.2029) with Indian Electronic Tourist Visa 9028AD7BJ,



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which was valid only till 02.12.2020. Since the Tourist Visa got expired, she intended to obtain Indian Passport by fraudulent means and she stayed at D.No.32, Block 166, 2nd Shakthi Colony, 4th Avenue, Anna Nagar, Chennai and using the rent lease agreement with the house owner, Sri Jaykumar, she obtained other Indian identity documents in a fraudulent manner. Further, she obtained Gas/LPG connection after which she opened bank accounts in IOB, Kilpauk Branch and also in various other Banks. Later she obtained Aadhar Card bearing No.4931 2179 9448 from UIDAI. Further, she also obtained Indian Pan Card bearing No.BFLPL 34901J on 09.10.2020 through NDSL in fraudulent manner and created false Indian Voter identity card bearing No.RAZ2456734. With these documents, she applied and obtained Indian Passport, bearing No.U8011090 from the Regional Passport Office, Chennai on 04.12.2020 dishonestly and fraudulently. She stayed back in India with the intention to siphon off huge amount from a Bank account in IOB, Fort Branch, Mumbai held in the name of Hamida A Lalljee with account No.xxxxxx8029 and for using the same to revive LTTE Organisation in India and Sri Lanka. The above said copy of Indian Passport, copy of Indian Voter identity card, Sri Lankan Passport in original, original boarding pass of Go Air Flight were seized from her. The case was registered in the



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respondent in Cr.No.1 of 2021 for alleged offences under Sections 420, 465, 468, 471 of Indian Penal Code (IPC) and Sections 12(1)(b), 12(IA)(a) of Passport Act, 1967 and Section 14(a) of Foreigners Act, 1946 and Sections 18, 39 and 40 of Unlawful Activities (Prevention) Act, 1967.

3. The Trial Court elaborately considered the grounds raised by the appellant and objections submitted by the respondent and rejected the bail application by relying on the judgment of the Hon'ble Supreme Court of India. The appellant mainly raised health grounds and with reference to the health grounds, the Trial Court has made the following findings to Point No.5, reads as under;

“The details of out-OP Referral, Admission at Stanley Medical College, IMH, RSRM

<i>Sl. No.</i>	<i>Date of Referred</i>	<i>Referred Hospital</i>	<i>Referred Management Department</i>	<i>Advice Treatment</i>
1	23.10.2021	Stanley Medical College Hospital	Neuro Medicine Ortho Medicine	CT Brain taken Normal finding Ortho X ray B/L Knee – AP/L N diagnosed as seizure disorder started on Anti - Epileptics.
2	18.11.2021	Stanley Medical College Hospital	Ortho, Neuro	Review and continue Antiepileptics
3	01.12.2021	Stanley Medical College Hospital	Psychiatiric	Started on drugs for depression
4	04.12.2021	Stanley Medical College Hospital	Medicine	Admission 4-12-21 – 9-12-21 treated for SHT/ T2DM/ SZD /HYPOTHYROID/Depression



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Sl. No.	Date of Referred	Referred Hospital	Referred Management Department	Advice Treatment
				complete blood, X-ray chest ECG, USG-Abdomen-Normal study
5	18.12.2021	Stanley Medical College Hospital	Psychiatric	Review
6	19.01.2022	Stanley Medical College Hospital	Neurology	Review
7	05.02.2022	RSRM	OBS & GYNAE	Menorrhagia USG Pelvis Submucosal fibroid? Endometrial growth suggested MRI Pelvis
8	10.02.2022	SPW Puzhal		Seen by IMH Psychiatrist advised for admission
9	19.02.2022	IMH	Psychiatrist	Admission from 19.02.2022 - 22.02.2022 admitted Depressive disorder co morbidities/Seizures/T2D M/hypothyroid.SHT/Age with no dehydration
10	12.03.2022	RSRM	OBS & GYNAE	Plan for via/vili
11	19.03.2022	RSRM	OBS & GYNAE	VIA/VILI – negative
12	21.03.2022	RSRM	OBS & GYNAE	MRI-Pelvis, Diffuse Uterine Adenomyosis
13	16.04.2022	RSRM	OBS & GYNAE	Review
14	29.04.2022	RSRM	Psychiatrist	Plan for fractional curettage Under anaesthesia
15	07.05.2022	RSRM	OBS & GYNAE	Review advised for CBC, Thyroid
16	14.05.2022	RSRM	OBS & GYNAE	Review, RFT, LFT, Cardio opinion
17	17.05.2022	Stanley	Cardiology	ECG, ECHO done
18	18.05.2022	Stanley	General medicine	for blood investigation



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4. Further, it is found that the allegations against the appellant are serious in nature.

5. The objections filed by the respondent in present criminal appeal are necessarily to be considered and with reference to the statement of witnesses from the counter, reads as under;

<i>LWs</i>	<i>Name of witnesses sh/smt</i>	<i>Gist of Evidence</i>
LW-1	Sh K.G.Sadasivam, AFFRO/D, Batch Bureau of immigration, Chennai Airport Meenambakkam, Chennai – 27.	He is the complaint against A-1 a Sri Lankan National for obtaining Indian Passport in a fraudulent manner by suppressing information about her original nationality and he lodged complaint before the Inspector of Police, 'Q' Branch CID, Chennai on 01.10.2021 for legal action.
LW-2	Sh Rishi S.Nair Immigration Officer, Bureau of Immigration, Chennai Airport, Meenambakkam, Chennai – 600 016.	He speaks about intercepting A-1 a Sri Lankan National on the directions given by the AFFRO
LW-9	Sh Ravi Kumar, Dy Passport Officer, Regional Passport Office, Chennai	He speaks about the process of issuing of Indian Passport and verification done by the passport to the applicant namely Letchumanan Mary
LW-16	Sh R.Vinod, Duty Officer, GO First, Chennai Domestic Airport, Meenambakkam, Chennai.	He speaks about furnishing of tickets booking details pertaining to passenger (i) Letchumanan Mary Franciska (ii) Gunaseelan and I S Kander Alterr Lalljee
LW-17	Sh Annadurai, Asst, Electoral Registration Officer / Assistant Revenue Officer, No.22, Virugambakkam Assembly Constituency, Zone-10, Chennai.	He speaks about furnishing genuineness of Indian Voter ID bearing No. RAZ2456734 & RAZ2676214 and further stated that the said voter ID not issued from the Virugambakkam Assembly Constituency.
LW-19	Smt. S.Sujatha, Sub-Registrar (Incharge), Sub-Registrar Office,	She speaks about the adjudication of power of attorney held in the name of accused A-1



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LWs	Name of witnesses sh/smt	Gist of Evidence
	Adayar, Chennai.	Letchumanan Mary Franciska on 19.10.2020 at the SRO Adyar, Chennai.
LW-20	(Protected Witness)	He speaks about the adjudication of General power of Attorney done based on the influence of Retd. Judge Kannadasan and about handing over the General power of attorney to GPN Bharathy near M.S. Medicals, Thiruvannamiyur.
LW-21	Sh Iskander A Lalljee, Age-59/2021, S/o Altaf Housein Bhoy Lalljee, No. 1611/A, Beverly Park-II, DLF City, Phase-II, Gurugaoon, Haryana-122002.	He speaks about the account held by him and his family at IOB Fort Branch Mumbai, He speaks about the fabrication of Aadhar Card and Pan card in his name and being alerted by the bank staff that someone was given power to operate the account.
LW-23	Sh Rajan Verma, Asst. Manager Indian Overseas Bank Fort Branch- 30/32, Tambarin House, Tambrine Lane Mumbai- 400001.	He speaks about handing over the details of the accounts held in the name of Hamida Lalljee and Mary Franciska and other details regarding the account.
LW-25	Sh Jagadish Narmada Shankar Pandiya. S/o.Narmad Shankar, Dosti Pearl, CHS Ltd., Flat No. A3, behind Stella Petrol pump, Vasai West-401202.	He speaks about the bank manager informing him about the power of attorney and he passing on the information to Iskanther Lalljee and Arshia A Lalljee.
LW-26	Sh Jayasekhar Maharajan Nadar (Retd Manager HDFC Mumbai) S/o Maharajan, r/o 12, shirang Bldg, Plot No. 351, Chandavarkar Road, Matunga Mumbai- 400019.	He speaks about meeting with A1, A2 in Mumbai and A1 & A2 asking how to operate certain accounts held in the bank he warns Akash that he feels that there was activity of something fraudulent in nature etc.,
LW-29	Sh Sandeep Chandrakan Wadekar s/o jchandrakant Babu Wadekar r/o 137, shri Gajanan Rahiwasi Seva Sangh, Behind Near Shivaji Nagar, Jai Bhavani Mata Marg Amboli Andheri West, Mumbai-58.	He is the house owner where in A1 made Lease/Rented agreement at Mumbai as well as friend of A2. He speaks about the agreement with A1 and by renting out his house located at Mumbai etc., He identified A1 and A2 through photo identification proceedings conducted on 13.02.2022.
LW-32	Smt Vijaya, Chief Regional Manager, Indian Overseas Bank, Regional Office No. 11/952, Cross Cur Road, Coimbatore.	She speaks about opening of SB account by accused A1 in IOB Mumbai Fort Branch and her suspicion on accused A1 & A2 and reporting to Vigilance department for taking



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LWs	Name of witnesses sh/smt	Gist of Evidence
		preventive measures etc.,
LW-37	Sh D Suresh s/o Dhandpani, No.11, C Block, aiswarya Nivedha, Apartment, Seetha Patabi Nagar, Bharathi Street, Ayappakkam, Tiruvallur, Tamil Nadu- 600 077.	He is a driver of Pon Meena man at SRO Office Adyar and speak about attesting as a witness in the Power of Attorney which was adjudicated at the SRO Adyar by accused A1 who came along with A2.
LW-42	(Protected Witness)	He speaks about the acquaintance with the Umakanthan while he was working in the restaurant owned by Umakanthan in Denmark. Further he speaks about the facilitation extended to accused A1 as per the instruction of Umakanthan and the purpose of arrival by accused A1 in India.
LW-47	Sh M.B. Prabhusudha @ Prabhu, S/o.Bichal, No.08, Aashirvadpuram, 2nd Street, Pulianthope.	He speaks about the involvement of accused A4 and warning A4 not to involve with accused A1 since she came from Sri Lanka and suspected to be linked with LTTE.
LW-48	Smt B Banu Borah w/o Borah (Late), No.04, Kumaran Selva Apartment, Ground Floor, Venkateswara, 2 nd Main Road, Velacherry, Tamil Nadu.	She speaks about suspecting that accused A1 is a Sri Lankan and that she is a LTTE operative and informing accused A5 Chellamuthu about it.
LW-49	Sh D.Chandrasekaran, M-45, S/o. Durai, Mariyamman Koil Street, Parvathyapuram Village, Gooda Nagram Post, Gudiyattam Taluk, Vellore District.	He speaks about accused A1 & A2 visiting his native place and enquired whether the amount held in the IOB Mumbai branch will be withdrawn of not. Further he speaks that accused A1 enquired whether LTTE leaders are alive and if LTTE will revive and if they will get the Tamil country back.

6. The learned Special Public Prosecutor would submit that the chargesheet filed and trial commenced. Under these circumstances, in the event of releasing the appellant on bail there is likelihood of causing



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prejudice to the trial and therefore, we request the learned Special Judge to expedite the trial as expeditiously as possible.

7. With these observations, the Criminal Appeal Stands dismissed.

[S.M.S., J.] [V.S.G., J.]
02.09.2024

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Index : Yes

Speaking order / Non-speaking order

Neutral Citation : Yes

To

- 1.The District and Sessions Judge,
Special Court under the National Investigation Agency Act, 2008,
Sessions Court for Exclusive Trial of Bomb Blast/POTA Cases,
Poonamallee, Chennai.
- 2.The Inspector of Police,
Union of India,
National Investigation Agency,
Chennai Branch.
- 3.The Superintendent of Prisons,
Central Prison-III, Puzhal,
Chennai.
- 4.The Special Public Prosecutor,
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