



Crl.A.No.1115 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	09-12-2024
Pronounced on	18-12-2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

Crl.A.No.1115 of 2024

Noorudeen @ Rafi @ Ismail

...Appellant

Vs.

The State rep by
Deputy Superintendent of Police,
National Investigation Agency
Chennai.

...Respondent

Prayer: Criminal Appeal filed under Section 21 of NIA Act to set aside the order in Cr.MP.No.1454 of 2024 in Spl.SC.No.15 of 2022 dated 05.08.2024 passed by the Special Court under the National Investigation Agency Act, 2008 (Sessions Court for Exclusive Trial of Bomb Blast cases and Special Court for NIA Cases), Chennai at Poonamallee Chennai-56 and enlarge the appellant on bail, pending trial in the above case.



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For Appellant : R.Sankarasubbu

For Respondent : Mr.R.Karthikeyan,
Spl.PP for NIA.

J U D G M E N T

(Made by the Hon'ble Mr.Justice M.JOTHIRAMAN)

This criminal appeal has been filed seeking to set aside the order dated 05.08.2024 in Crl.MP.No.1454 of 2024 in Spl.SC.No.15 of 2022 passed by the Special Court under the National Investigation Agency Act, 2008 (Sessions Court for Exclusive Trial of Bomb Blast Cases and Special Court for NIA cases), Chennai at Poonamallee.

2. The appellant states in his petition before the Special Court as follows :-

(i)The petitioner states that charges for an offence under Sections 120(B) IPC r/w.489(c) r/w.34 IPC. 120(B) of IPC r/w.16 of Unlawful Activities (Prevention) Act, 1967, Section 16 & 18 of Unlawful Activities (Prevention) Act, 1967 and Section 16 of Unlawful Activities (Prevention) Act, 1967 r/w.34 IPC on the file of the respondent/complainant.



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(ii) Earlier the petitioner was granted bail and regularly attending the Courts, due to his ill health he was bedridden and NBW was issued on 18.08.2023 without notice and hearing. He was arrested by the respondent/police on 15.05.2024 and remanded on the same day on execution of NBW. The petitioner is ready to abide by any conditions imposed and ready to furnish solvent sureties for his release. The petitioner will not tamper the witnesses or evidence in the trial proceedings and prayed for bail.

3. The brief averments in the counter affidavit filed by the respondent/complainant :-

(i) The respondent has filed charge sheet on 22.02.2018 and the petitioner has been charge sheeted under Section 120(B), 489B of IPC and Sections 16 and 18 of the Unlawful Activities (Prevention) Act 1967. The Court was taken cognizance of offence in Spl.SC.No.15/2022 and thereafter charges have been framed by this Court for the offences under Section 120(B), 489(B) of IPC and Sections 16 & 18 of the Unlawful Activities (Prevention) Act 1967 against the petitioner/accused and the



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trial has also been commenced and examination of witnesses has already been commenced.

(ii) The petitioner was reassigned as A2 vide Spl.CC.No.15 of 2022 had filed bail petition before the Special Court in MP.No.499 of 2021 and the same was dismissed. The petitioner/accused filed an appeal before the Hon'ble High Court in Crl.A.No.2265 of 2022 and the appeal was allowed by the Hon'ble High Court on 26.08.2022 by granting bail with conditions to the petitioner/accused.

(iii) On contrary to the directions of this Court vide para 20(d) of the order dated 26.08.2022, the petitioner/accused had failed to report to the respondent/police on the following dates i.e., 01.01.2023, 05.02.2023, 20.08.2023, 27.08.2023, 03.09.2023 and 10.09.2023. A case was registered against the petitioner/accused vide Cr.No.553 of 2023 dated 16.08.2023 under Section 145, 341, 364(a), 506(ii) r/w.170 of IPC at Thiruvottriyur PS (H-8), Chennai – 19 and thus contravened para 20(f) of the order dated 26.08.2022.



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(iv) The petitioner/accused has not appeared before the Special Court during the hearing dates on 18.08.2023, 28.08.2023, 04.09.2023 and 12.09.2023, thereby violated para 20(g) of the order dated 26.08.2022. Hence, NBW was issued against the petitioner/accused by the Special Court vide order dated 19.09.2023. The bail granted to the petitioner/accused was cancelled, by an order dated 16.10.2023 passed in Crl.MP.No.1854 of 2023 filed by the NIA. The NIA team tried to contact the petitioner/accused over his mobile number which was provided by him, as directed by the Hon'ble High Court, while granting bail to the petitioner/accused, but the same remained switched off from the date of his absence. A team of NIA had visited the address of the petitioner/accused where he ordinarily resides as furnished to the Court, but the petitioner/accused was not available there, thereby the petitioner/accused violated para 20(k).

(v) The NIA conducted continuous discreet as well as open enquiries to arrest the absconding petitioner/accused in and around his locality and all over the State of Tamil Nadu and necessary information was also sought from the concerned Village Offices about the



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petitioner/accused. The NBW issued against the petitioner/accused on 19.09.2023 was returned along with the petition in Crl.MP.No.424 of 2024 to initiate action under Sections 82 and 83 of Cr.PC on 23.02.2024. The Special Court had declared the petitioner/accused as proclaimed offender and ordered the petitioner/accused to appear on 06.05.2025 at 10.20am. In order to complete the proceedings of 82 Cr.PC, the respondent/police taken due steps and a copy of the proclamation order was pasted/affixed in conspicuous places of both the residence.

(vi)The said proclamation was published in the daily newspaper viz., Dhinathanthi and the New Indian Express (Chennai editions) on 04.04.2024. It was also announced that any information shared in respect of the proclaimed offender shall be rewarded with a sum of Rs.5,00,000/-. The petition filed under Section 446 of Cr.PC to initiate appropriate action against the sureties for releasing on bail of the accused person vide Crl.MP.No.2588 of 2023 and the same was allowed by the Special Court.

(vii)Based on the reliable source information, the petitioner/accused



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was at his hideout at Mysuru in Karnataka State and the NIA team reached the hideout at No.180, IInd floor, 4th Cross, Second Street, Devanur Extn Rajiv Nagar, Mysuru City, Karnataka and identified the accused person hiding there in the identities of Sheik Maideen Siraj and Nayeem. The petitioner/accused was arrested and produced before the Special Court. If the petitioner/accused is released on bail, the petitioner/accused is at high flight risk and he may again abscond to evade criminal justice system and trial proceedings. The petitioner/accused may further hamper the investigation and tamper with the evidence. The petitioner/accused may influence and threaten the witnesses including the family of the witnesses. The petitioner/accused will indulge in criminal offences as he is a habitual offendor. Hence, prayed for dismissal of the bail petition.

(viii) The petitioner/accused had filed petition under Section 439 of Cr.PC to enlarge him on bail pending Spl.SC.No.15 of 2022 and the same was dismissed by the learned Special Court, on the ground that the Section 43(D)(5) proviso is squarely applicable and charges were framed under sections 16 and 18 of the Unlawful Activities (prevention) Act,



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1967 which falls under Chapter IV of the Unlawful Activities (prevention) Act, 1967 apart from other charges. The petitioner/accused also violated the conditions imposed by the Hon'ble High Court.

4. The learned Counsel appearing for the appellant Mr.R.Sankarasubbu would submit that the appellant was already served more than five years as under trial prisoner. He would submit the abscondance has no consensus, he suffered from illness and could not attend the trial Court. The appellant was already granted bail, but technical violation only resulted the said detention. He would submit that at any event the prolonged custody is violative of Article 21 of the Constitution of India. Further, the reasons given by the Special Court is unsustainable in the eye of law and it just and necessary to set aside the order of the Special Court. To strengthen his contention the learned counsel has relied upon the judgment of the Hon'ble Supreme Court in **Crl.A.No.742 of 2020 – Arnab Manoranjan Goswami Vs. The State of Maharastra and others dated 27.11.2020** and the judgment of the Hon'ble Supreme Court in **WP.(civil).No.406 of 2013 in In Re-Inhuman conditions in 1382 prisons v. respondents dated 19.11.2024.**



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5. Mr.R.Karthikeyan, Special Public Prosecutor for NIA cases would vehemently opposed for grant of bail to the appellant and strenuously argued that the appellant misused the liberty of bail which was granted by the Hon'ble High Court vide order dated 26.08.2022. Contrary to the directions of this Court in para 20(d), the appellant had failed to report before the respondent/police on the following dates i.e., 01.01.2023, 05.02.2023, 20.08.2023, 27.08.2023, 03.09.2023 and 10.09.2023. A case was registered against the appellant vide Cr.No.553 of 2023 dated 16.08.2023 under Section 145, 341, 364(a), 506(ii) r/w.170 of IPC at Thiruvottriyur PS (H-8), Chennai – 19 and thus contravened para 20(f) of the order dated 26.08.2022.

5(i). He would submit that the appellant had not appeared before the Special Court for the hearing dates on 18.08.2023, 28.08.2023, 04.09.2023 and 12.09.2023 thereby violated para 20(g) of the order dated 26.08.2022. Thereby, the Special Court issued NBW against the appellant by an order dated 19.09.2023. The NIA has filed application for cancellation of bail in Crl.MP.No.1854 of 2023 and the same was



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allowed on 16.10.2023. The NIA team tried to contact the appellant over mobile number which was provided by him, as directed by this Hon'ble Court while granting bail to the appellant, but the same remained switched off from the date of his absence. The NIA team had visited the address of the appellant where he ordinarily resides as furnished to the Court, but the appellant was not available there, thereby the appellant violated para 20(k) of the this Hon'ble Court order dated 26.08.2022.

5(ii). He would submit that based on reliable source information, the appellant/accused was arrested at Mysuru City and produced before the Special Court. He would submit that the appellant/accused is habitual offender causing nuisance and terror to the society and facing many criminal cases. There are no sufficient ground for enlarging the appellant on bail during trial. There are possibilities of in case the appellant was enlarged on bail, he may tamper with the evidence, influence the witness who are yet to be examined by the prosecution and prayed for dismissal of the present appeal.

6. We have considered the submissions made on either side and



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perused the available records carefully.

7. The appellant/accused was charge sheeted by the NIA No.RC-02/2014/NIA/HYD under Section 120B, 489B of the IPC and Sections 16 and 18 of Unlawful Activities (Prevention) Act, 1967 along with other accused persons Amir Zubair Siddiqui/A2 under Sections 120B, 121A and 489B of IPC and Sections 16 and 18 of Unlawful Activities (Prevention) Act, 1967 and Balasubramanian @ Balu @ Balan/A4 under Sections 120B, 489B of IPC and Sections 16 and 18 of the Unlawful Activities (Prevention) Act, 1967 on 22.02.2018 along with the sanction for prosecution in exercise of powers conferred under Section 45(1) of the Unlawful Activities (Prevention) Act, 1967 and Section 196 of Cr.PC issued by the Ministry of Home Affairs, Government of India (CTCR Division), North block, New Delhi vide order No.11011/32/2014/IS-IV dated 18.01.2018.

8. The learned NIA Special Court, Poonamallee took cognizance of offences and assigned Spl.SC.No.15 of 2022. Charges have been framed for the offences under Section 120B, 489B of IPC and Sections 16 and 18



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of Unlawful Activities (Prevention) Act, 1967 against the appellant/A2-Noorudeen @ Rafi @ Ismail (A7 reassigned as A2 vide Spl.CC.No.15/2022) and trial has also commenced and witness examination is being continued.

9. The appellant/accused had filed earlier bail petition before the learned NIA Special Court in Crl.MP.No.499 of 2021 and the same was dismissed by the learned NIA Special Court on 10.02.2022. As against the said order, the appellant filed criminal appeal before this Court in Crl.A.226 of 2022, vide order dated 26.08.2022 granted bail to the appellant with conditions, paragraph 20 of the order states here under :-

“20. The appellant is ordered to be released on bail:

(a) on executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a likesum to the satisfaction of the Special Court under the National Investigation Agency Act, 2008 (Sessions Court for Exclusive Trial of Bomb Blast Cases), Poonamallee, Chennai.



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(b) One such surety shall be the wife of the appellant and the other surety shall be a Government Servant.

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge, Special Court may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the appellant shall report before the Special Court on all hearing dates and before the respondent police on every Sunday at 10.30 a.m. until completion of trial in C.C. No. 1 of 2018. (If the appellant has to appear for trial before any other Courts, he has to intimate the Special Court in advance).

(e) the appellant shall not leave the State of Tamil Nadu without prior permission from the Special Court.

(f) the appellant shall not commit any



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offences;

(g) the appellant shall not abscond during trial;

(h) the appellant shall not tamper with evidence or witness during trial;

(i) the appellant shall furnish the Mobile Number, which shall not be changed till the issue comes to a logical end. However, he is permitted to change the portability.

(j) the appellant shall surrender his passport, if any, to the Trial Court. For the purpose of renewal, the original can be taken by making an application and the renewed one shall be surrendered within a week of receipt of the same;

(k) the appellant shall not travel abroad without the permission of the Court. In case he wants to go abroad, while seeking permission, he shall furnish the address and place, where he is going to stay together with mobile number and



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email and if he stays in hotel, the details of the accommodation and the period of stay, mode of travel alongwith the complete itinerary shall be furnished to the Trial Court as well as Police.

*(l) on breach of any of the aforesaid conditions, the learned Judge, Special Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Judge, Special Court himself as laid down by the Hon'ble Supreme Court in **P.K. Shaji vs. State of Kerala** (2005) AIR SCW 5560];*

(m) if the appellant thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

*(n) The Special Court shall proceed further with the trial on a day to day basis in accordance with the guidelines given in **Vinod Kumar vs. State***



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of Punjab (AIR 2015 SC 1206). The trial shall not be adjourned beyond seven working days at any point of time.

*(o) if the appellant adopts any dilatory tactics, it is open to the Special Court to remand the appellant to custody as laid down by the judgment of the Apex Court in State of **Uttar Pradesh vs. Shambhu Nath Singh** (JT 2001 (4) SC 319). ”*

10. In the present criminal appeal, the respondent /complainant has filed an objections. It is relevant to reproduce the paragraphs 6 to 15 as hereunder :-

“6. It is submitted that in contrary to the directions to the Hon'ble Madras High Court vide Para No.(d) of Order dated 28.06.2022, the accused/appellant Noorudeen @ Rafi @ Ismail had failed to report to the respondent police (NIA) on the below mentioned dates :-

S.No	Date	Remarks
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1	010123	<i>The accused Noorudeen @ Rafi @ Ismail was not present hence marked absent</i>
2	020523	<i>The accused Noorudeen @ Rafi @ Ismail was not present hence marked absent</i>
3	082023	<i>The accused Noorudeen @ Rafi @ Ismail was not present hence marked absent</i>
4	082723	<i>The accused Noorudeen @ Rafi @ Ismail was not present hence marked absent</i>
5	090323	<i>The accused Noorudeen @ Rafi @ Ismail was not present hence marked absent</i>
6	091023	<i>The accused Noorudeen @ Rafi @ Ismail was not present hence marked absent</i>

7. It is further submitted that a crime was registered against the accused/appellants Noorudeen @ Rafi @ Ismail vide Crime No.553/2023 dated 16.08.2013 u/s.145, 341, 364(a), 506(ii) read with 170 of IPC at Thiruvottiyur PS (H8) Chennai-19 and thus contravened Para (f) of the Hon'ble high Court order dated 28.06.2022.



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8. *The accused/appellant had not appeared before the Hon'ble NIA spl Court during the hearing dates on 18.08.2023, 28.08.2003, 04.09.2023 and 12.09.2023 thereby violated Para (g) of the order dated 28.06.2022. Hence, NBW against the accused/appellant was issued by the Hon'ble NIA Spl Court on 19.09.2023. The Bail granted to the petitioner/ accused person was cancelled by the Hon'ble Spl Court based on the Crl.MP.No.1854/2023 filed by the NIA vide order dated 16.10.2023*

9. *The NIA team tried to contact the accused/appellant over his mobile Number which was provided by him as directed by Hon'ble Madras High Court while granting bail to the said accused vide order dated 26.08.2022 in Crl.A. No. 226 of 2022, but the same remained switched off from the date of his absence.*



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10. *A team of NIA had visited the address of the accused/appellant Noorudeen @ Rafi @ Ismail (A2) where he ordinarily resides as furnished to the Court by the accused in his bail application ie at Door No.444, Block No.23. Sathyamoorthy Nagar, Vysarpadi, Chennai 600 039, but he was not available there. Moreover, it was ascertained that the accused/appellant was not residing there and he had intentionally provided his mother's residential address to mislead the Court as well as the Investigating Agency thereby violated Para (k) of the order dated 28.06.2022.*

11. *It is further submitted that the NIA conducted continuous discreet as well as open enquiries to arrest the said absconding accused Noorudeen @ Rafi @ Ismail in and around his locality and all over the State of Tamil Nadu. Necessary information was also sought from the*



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concerned Village offices about the absconder. A Special Team was also constituted to nab the him but no actionable inputs were received as he had been intentionally concealing himself from the execution of the Warrant issued by the Hon'ble NIA Special Court.

*12. It is further submitted that the NBW issued against the absconding accused Noorudeen @ Rafi @ Ismail (A2) dated 19.09.2023 was returned along with petition in Crl.MP.No.424/2024 to initiate action U/s.82 and 83 of the CrPC dated 23.02.2024 and the Hon'ble Court pronounced a **Proclamation that the accused person is required to appear before the Hon'ble Court on 6th day of May 2024 at 10.20 AM.***

13. It is further submitted that a petition U/s 446 of CrPC to initiate appropriate action against the sureties for releasing on bail of the accused person vide Crl MP No.2588/2023 and the same was allowed



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by the Hon'ble NIA Spl Court and the Hon'ble Court was pleased to fine the surety Rs.25,000/- for the failure to produce the accused person.

14. It is further submitted that based on a reliable source information that the accused person was available in a hideout at Mysuru in Karnataka State, the NIA team reached the hideout at No. 180, IInd Floor, 4th Cross, Second Street, Devanur Extn Rajiv Nagar, Mysuru City, Karnataka and identified the accused person hiding there in the identities of Sheik Maideen Siraj and Nayeem. The documents regarding the fraudulent change in identities were seized from the hide out in the presence of independent witnesses. He was then arrested and produced before the Hon'ble Court.

15. It is further submitted that this appellant/accused is habitual offender causing



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nuisance and terror to the society and facing many criminal cases. The cases registered against the petitioner/accused are as follows:

S. No	Police Station	Case No & Section of Law	Status of the case
1	R1 Mambalam PS	Cr.No.1210/2007 u/s 420 IPC Credit Card Cheating	Convicted on 14.03.2008
2	Thiruvottriyur PS	Cr.No.768/2009 u/s 395, 397, 120-B IPC	Pending Trial PRC.No.58/2010
3	CCB, Chennai	Cr.No.343/2010 u/s.420 IPC	Pending Trial in CC.No.7171/2017
4	Peryiyapalayam PS	Cr.No.370/2011 u/s.392 IPC	Pending Trial in PRC.No.4/2012
5	CCB Chennai	Cr.No.447/2012 u/s.489-C IPC	Under Investigation
6	Cholavaram PS	Cr.No.337/2013 u/s.302 IPC	Pending Trial in CC.No.02/2015
7	Kodungaiyur PS	Cr.No.133/2013 u/s.489-B & C IPC	Case transferred on 27.01.2013 to CCB, Chennai & UI
8	Seven Wells PS	Cr.No.1146/2013 u/s.341, 336, 427, 357, 506(ii) IPC	Acquitted on 15.06.2015
9	CBCID CC Wing	Cr.No.02/2014 u/s.489-B & C IPC r/w.25 (1-B)(a) of the Arms Act 1959, Sec 15(1)(1)(iiia) r/w.16(1) of UA(P) Act 1967	Pending trial in CC.No.49/2014
10	NIA (National Investigation Agency)	RC-02/2014 u/s.16, 17, 18 & 20 of the UA(P)A 1967 and 120(B), 34, 124(A), 489(C) IPC	Pending trial



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11	<i>B1 North Beach Police Station (L&O), Chennai</i>	<i>Cr.No.335/2019 under Sections 448, 342, 392 of IPC r/w.397, 506(ii) of IPC</i>	<i>Pending trial</i>
12	<i>M-8 Sathangadu PS</i>	<i>Cr.No.2451/2020 dated 29.12.2020 u/s.294(b), 307, 506(ii) of IPC</i>	<i>Pending trial</i>
13	<i>G2 Periamet PS</i>	<i>Cr.No.81/2021 dated 05.05.2021 u/s.392 of IPC</i>	<i>Pending trial</i>
14	<i>G2 Periamet PS</i>	<i>Cr.No.151/2021 dated 21.05.2021</i>	<i>Pending trial</i>
15	<i>H8 Thiruvottriyur PS</i>	<i>Cr.No.553/2023 dated 16.08.2023 u/s.145, 341, 364(a), 506(ii) r/w.170 of IPC</i>	<i>Under investigation</i>

11. It is pertinent to mention that the learned Special Court observed in its order dated 05.08.2024, that the appellant/accused was absent on following hearings i.e, on 18.08.2023, 28.08.2023, 04.09.2023, 12.09.2023 and on 13.09.2023 for his absence, his counsel filed 317 petition and they were allowed. On 14.09.2023, the appellant/accused was absent and his counsel filed 317 petition and same was dismissed and non-bailable warrant was issued on the same day. It was also observed that on following dates case was adjourned, because, NBW was pending against the appellant/accused i.e., 19.09.2023,



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07.10.2023, 27.10.2023, 09.11.2023, 23.11.2023, 30.11.2023, 02.12.2023, 08.12.2023, 13.12.2023, 15.12.2023, 20.12.2023, 27.12.2023, 22.01.2024, 23.01.2024, 13.02.2024, 19.02.2024, 23.02.2024, 27.03.2024, 04.03.2024, 06.03.2024, 06.05.2024 and 07.05.2024. On 07.05.2024, the appellant/accused was declared as proclaimed offender and the case was moved to the Long Pending Case Register vide LPC.No.1/2024.

12. At this juncture, it is relevant to cite Section 43(D)(2)(5) & (6) of Unlawful Activities (Prevention) Act. 1967 :-

“43D. Modified application of certain provisions of the Code -

(1)....

(2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that in sub-section (2),— (a) the references to “fifteen days”, “ninety days” and “sixty days”, wherever they occur, shall be construed as references to “thirty days”,



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“ninety days” and “ninety days” respectively; and

(b) after the proviso, the following provisos shall be inserted, namely:—

“Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Court may if it is satisfied with the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of ninety days, extend the said period up to one hundred and eighty days:

Provided also that if the police officer making the investigation under this Act, requests, for the purposes of investigation, for police custody from judicial custody of any person in judicial custody, he shall file an affidavit stating the reasons for doing so and shall also explain the delay, if any, for requesting such police custody.

(3).....



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(4).....

(5)Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:

Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true.

(6) The restrictions on granting of bail specified in sub-section (5) is in addition to the restrictions under the Code or any other law for the time being in force on granting of bail.”



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13. It is pertinent to mention that the learned Special Court upon considering the final report, believing that there are reasonable grounds that the acquisition with the appellant/accused is prima facie made out and charges were framed under Sections 16 and 18 of the Unlawful Activities (prevention) Act, 1967 which falls under Chapter IV of Unlawful Activities (prevention) Act, 1967, apart from the other charges.

14. The main submissions of the learned counsel for the appellant that the appellant/accused was already served more than 5 years as under trial prisoner and hence the abscondence has no consequences. Mere fact that the appellant/accused had undergone certain period of incarceration itself would not entitle the appellant/accused to being enlarged on bail. It is settled law that the number of days that a person stays in jail which becomes irrelevant for the purpose of considering whether he is entitled to bail. It is the magnitude of the offence and the impact on the public at large on granting bail that matters. While considering the facts of this case would go to show that the appellant/accused is not obeying the order of this Court and also violated the conditions stipulated by this Court in



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CrI.A.No.226 of 2022 dated 26.08.2022 in paragraph 20(d), (g), (f) & (k). The learned counsel for the appellant contend that appellant/accused was already granted on bail, only technical violation resulted the said detention is not acceptable one. Since, the appellant was violating the major conditions and absconding, such behaviour implies the risk of non-compliance. The non compliance of the order of this Court which would impact in conducting trial. The appellant/accused misused and violated the order of this Court dated 26.08.2022 and there are no sufficient grounds for enlarging the appellant/accused during trial. There are possibilities that in case the appellant is enlarged on bail, he may tamper with the evidence and influence the witnesses who are yet to be examined by the prosecution, till 05.08.2024 PW1 to PW3 alone were examined.

15. We are of the opinion, that there are no sufficient grounds are made out to enlarge the appellant/accused on bail. Thus, the order of dismissal of bail application by the Special Court does not suffer from any infirmity or material irregularity.

16. In the light of the aforesaid discussions, the criminal appeal



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stands dismissed. No costs.

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(S.M.S., J.) (M.J.R., J)
18.12.2024.

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation : Yes/No

To
The State rep by
Deputy Superintendent of Police,
National Investigation Agency
Chennai.



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S.M. SUBRAMANIAM, J.,
and
M. JOTHIRAMAN, J.,
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Pre – Delivery Judgment in
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18.12.2024.