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Crl.A. No.206 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.S.RAMESH**
and
THE NONOURABLE MR.JUSTICE **N.SENTHILKUMAR**

Criminal Appeal No.206 of 2025

Sathiya Mary @ Padma

.. Appellant/A-30

Vs.

The State Of Tamilnadu Rep By,
The Deputy Superintendent Of Police,
Q Branch, Dharmapuri.

.. Respondent

* * *

Prayer : Criminal Appeal filed under Section 34 of the Prevention of Terrorism Act, 2002, to set aside the order in Crl.M.P.No.2677/2024 in Spl.SC No.3/2022 dated 19.12.2024 on the file of Special Court under Prevention of Terrorism Act, Poonamallee, Chennai.

* * *

For Appellant : Mr.R.Sankarasubbu

For Respondent : Mr.S.Rajakumar,
Additional Public Prosecutor



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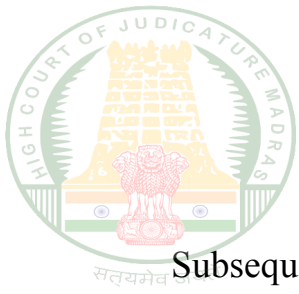
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JUDGMENT

(delivered by N.SENTHILKUMAR, J.)

The present criminal appeal is filed challenging the order of the Special Court under Prevention of Terrorism Act, Poonamallee, Chennai, dated 19.12.2024 made in Crl.M.P.No.2677/2024 in Spl.SC No.3/2022.

2. The appellant/accused No.30 was charged for the offence under Sections 120-B, 148, 149, 333, 307 IPC r/w Sections 3(2)(b), 3(5) of POTA, 2002. The trial was pending before the Special Court. The appellant was arrested on 24.11.2002 and was set at liberty on bail by this Hon'ble Court by its order dated 05.05.2005. Thereafter, on 20.01.2017, the bail was cancelled and the appellant surrendered on 07.12.2018. Subsequently, the appellant was released on bail in Crl.A.No.417 of 2021 dated 03.02.2022. During the pendency of the on going trial, the appellant filed a petition in Crl.M.P.No.2460 of 2024, seeking permission to meet her parents at Hyderabad and the Special Court had allowed the petition, granting 7 days leave i.e from 23.11.2024 to 29.11.2024. However, the Special Court had issued a Non Bailable Warrant against the appellant on 25.11.2024.



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Subsequently, the appellant moved a direction petition before this Court in Crl.O.P.No.29945 of 2024, and this Court had directed the appellant to surrender and file a recall petition before the Special Court. Thereby, the appellant had filed a petition to recall the warrant on 02.12.2024 under Section 70(2) Cr.P.C. However, the Special Court had dismissed the same and remanded the appellant/accused to judicial custody. Consequently, a petition to enlarge the appellant on bail was filed in Crl.M.P.No.2677 of 2024 under Section 439 Cr.P.C, and the same was also dismissed by the Special Court. Challenging the said order, the present appeal is filed.

3. Admittedly, the appellant/accused was under incarceration for about 3 ½ years and thereafter bail was granted. Mr.R.Sankarasubbu, the learned counsel appearing for the appellant would contend that, when the appellant was granted with leave for a period of seven days from 23.11.2024 to 29.11.2024 by the Special Court by allowing the Crl.M.P.No.2460 of 2024 filed by her, issuing a Non Bailable Warrant against the appellant on 25.11.2024 is not sustainable. Subsequently, the appellant moved a direction petition before this Court in Crl.O.P.No.29945 of 2024 and this Court had directed the appellant to surrender and file a recall petition before the Special



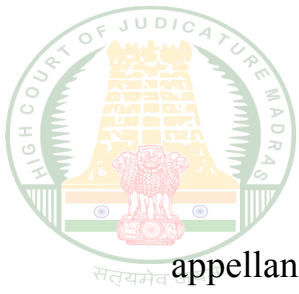
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Court and in compliance of the order of this Court, the appellant had also filed a petition to recall the warrant on 02.12.2024 under Section 70(2) Cr.P.C. However, on the contrary, the Special Court had dismissed the said recall petition and remanded the appellant to judicial custody and from thereafter, the accused is in jail.

4. There is substantial force in the argument advanced by the learned counsel appearing for the appellant contending that pursuant to the order of this Court, the appellant filed an application to recall the Non Bailable Warrant, however, the trial court had dismissed the same. The absence of the appellant/accused was bona fide and the same is justifiable as per the order of the Special Court dated 22.11.2024 made in Crl.M.P.No.2460 of 2024.

5. In view of the same, this appeal is allowed and the order of the Special Court under Prevention of Terrorism Act, Poonamallee, Chennai, dated 19.12.2024 made in Crl.M.P.No.2677/2024 in Spl.S.C. No.3/2022, is set aside. Consequently, the appellant shall be released on bail on condition that she shall furnish two sureties on execution of a bond to the value of Rs.5,000/- (Rupees Five Thousand only), with a further condition that the



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appellant shall appear before the Special Court under Prevention of Terrorism

Act, Poonamallee, Chennai, on all hearing dates.

[M.S.R., J.] [N.S., J.]

05.03.2025

(1/2)

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

Anu

To

- 1.The Special Court under Prevention of Terrorism Act,
Poonamallee, Chennai
- 2.The Deputy Superintendent of Police
Q Branch CID, Dharmapuri
(Uthangarai Police Station Cr. Nos.1004/2002
1005/2002, 1006/2002 and Kallavi Police Station
Crime No.434/2002)
- 3.The Public Prosecutor, High Court, Madras



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M.S.RAMESH, J.
and
N.SENTHILKUMAR, J.
Anu

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