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Crl.A. No.192 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.192 of 2025

Ananthi @ Amalorpavam

.. Appellant

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.26/2025 in Spl.SC No.3/2022 dated 24.01.2025 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



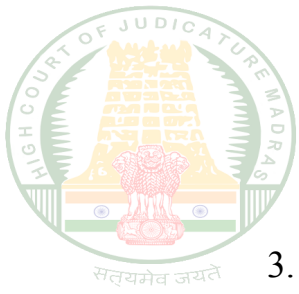
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JUDGMENT

(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 24.01.2025 made in Crl.M.P.No.26/2025 in Spl.SC No.3/2022.

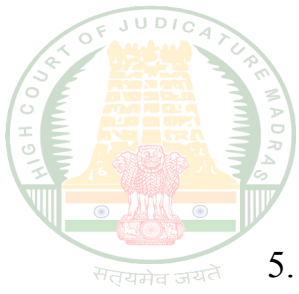
2. The appellant/accused No.20 was charged for the offence under Sections 3(5) of POTA, 2022, 120 B, 148, 207 r/w Section 149 & 333 r/w Section 149 of IPC. The trial was pending before the Special Court. The appellant was arrested on 24.11.2002 and was set at liberty on bail by this Hon'ble Court by its order dated 06.09.2005. During the pendency of the on going trial, the appellant could not appear before the Special Court on 13.11.2024, wherein the Special Court had issued a Nonailable Warrant against the appellant and thereafter, the appellant had filed a petition to recall the warrant on 26.12.2024 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 under Section 439 Cr.P.C and the same was dismissed on 24.01.2025 in Crl.M.P.No.26 of 2025. Challenging the said order, the present appeal is filed.



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3. Admittedly, the appellant/accused was under incarceration for about four years and thereafter bail was granted. Mr.R.Sankarasubbu, the learned counsel appearing for the appellant would contend that, when an accused could not appear before the court and an application under Section 317 of Cr.P.C is filed, the normal practice of the court is to accept the application and grant permission. Per contra, the court had dismissed the application and has issued a Non Bailable Warrant and when the accused surrendered before the Special Court on 26.12.2024, the trial court had dismissed the Recall application 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 when a Non Bailable Warrant was issued on 13.11.2024 and on 26.12.2024, an application was filed to recall the Non Bailable Warrant, however, the trial court had dismissed the same. The absence of the appellant/accused was bona fide by filing the application under Section 317 Cr.P.C. and they have subjected themselves before the Special Court to demonstrate their bona fides to show before the Special Court that they are appearing before the special court.



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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 24.01.2025 made in CrI.M.P.No.26/2025 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 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

(2/2)

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)



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3.The Public Prosecutor, High Court, Madras



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

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