



Crl.A.No.318 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM

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

Criminal Appeal No.318 of 2025

Durai

.. Appellant

Vs.

The State of Tamil Nadu 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.143 of 2025 in Spl.S.C.No.3 of 2022 dated 17.03.2025 on the file of the Special Court under Prevention of Terrorism Act, Poonamallee, Chennai and enlarge the appellant on bail.

For Appellant : Mr.R.Sankarasubbu

For Respondent : Mr.S.Raja kumar,
Additional Public Prosecutor



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JUDGMENT

(Judgment of the Court was 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 17.03.2025 made in Crl.M.P.No.143 of 2025 in Spl.S.C.No.3 of 2022.

2.The appellant/accused No.8 was charged for the offence under Sections 120B IPC r/w. 3(2), 3(5), 4(B) of POTA r/w. Section 149 IPC. The trial was pending before the Special Court. The appellant was arrested on 30.12.2002 and was set at liberty on bail by this Hon'ble Court by its order dated 12.02.2007. During the pendency of the on going trial, the appellant could not appear before the Special Court on 16.11.2024, wherein the Special Court had issued a Nonailable Warrant against the appellant. On the same day, the appellant filed a petition under Section 317 Cr.P.C. However, the Special Court had dismissed the same and remanded the appellant/accused to judicial custody on 03.03.2025. Consequently, a petition to enlarge the appellant on bail was filed under Section 439 Cr.P.C



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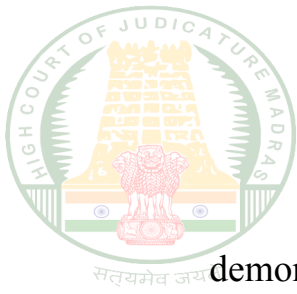
and the same was dismissed on 17.03.2025 in Crl.M.P.No.143 of 2025.

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Challenging the said order, the present appeal is filed.

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 remanded the appellant to judicial custody on 03.03.2025 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 16.11.2024, despite an application was filed under Section 317 Cr.P.C., 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 he has subjected himself before the Special Court to



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demonstrate his bona fides to show before the Special Court that he is appearing before the special court.

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 17.03.2025 made in Crl.M.P.No.143 of 2025 in Spl.S.C.No.3 of 2022, is set aside. Consequently, the appellant shall be released on bail on condition that he 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.)
24.04.2025

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

hvk

Note: Issue order copy on 30.04.2025



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To

- 1.The District and Sessions Judge,
Special Court under Prevention of Terrorism Act,
Poonamallee, Chennai
- 2.The Deputy Superintendent of Police,
Q Branch,
Dharmapuri.
- 3.The Superintendent,
Central Prison-II, Puzhal,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.



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

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