



Crl.MP.No.9420 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-01-2025

CORAM

**THE HONOURABLE MR JUSTICE S.M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**CRL MP No. 9420 of 2024
in
CRL A No. 828 OF 2022**

Union Of India Represented By Its
Superintendent Of Police/chief Investigation
Officer, National Investigation Agency, 10, Millers
Road, Purasaiwalkkam,
Chennai - 600010.

petitioner / respondent

Vs

Sathik Batcha (A-1)
S/o.Mohamed Hanif, Azeesh Nagar, Nidur,
Mayiladuthurai District.

Respondent/1st appellant

Prayer : This petition is filed under Section 439(2) Cr.PC to cancel the
bail granted to the respondent herein in CA.No.828 of 2022 dated 21.12.2023.

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



Crl.MP.No.9420 of 2024

WEB COPY For respondent : Mr.P.Pugalendhi

ORDER

(Order of the Court was made by the Hon'ble M.JOTHIRAMAN, J.)

This Criminal miscellaneous petition has been filed to cancel the bail granted to the respondent/first appellant in Crl.A.No.828 of 2022 dated 21.12.2023.

2. It is stated in the petition is that on 21.02.2022 at about 10.00am Mayiladuthurai police party intercepted a black colour Mahindra Scorpio Vehicle bearing Registration No.TN07-BL-1446 in which the accused A1 to A5 who were in the vehicle had boarded and threatened the police officers with a metal air gun with dire consequences. A case was registered in Cr.No.165 of 2022 dated 21.02.2022 under Sections 148, 506(ii) r/w.28 of Arms Act, 1959. During the course of investigation, the Inspector of Police Mayiladuthurai Police Station had arrested the accused Sathik Basha (A1), Mohamed Ashiq (A2), Mohamed Irfan (A3), Jegabar Ali (A4) and Rahamathullah (A5) on 21.02.2022 and they were remanded to judicial custody and lodged in Central Prison, Trichy. Further, the Inspector of Police



Crl.MP.No.9420 of 2024

had collected the evidences that the accused persons have involved in unlawful activities by forming Khilafah Party of India, Khilafah Front of India and Intellectual Students of India. Thereafter, on 06.03.2022, altered the sections to 148, 506(ii) and 307 IPC r/w. Section 28 Arms, 1959 and Section 13, 38 and 39 of UA(P) Act, 1967 and the investigation was transferred to Deputy Superintendent of Police, Mayilduthurai District.

2(i) The Government of Tamil Nadu forwarded the report to the Ministry of Home affairs, Government of India in accordance with the provisions of Section 6 of the National Investigation Agency Act, 2008 [hereinafter referred to as “NIA Act”] to take up the investigation. The NIA, New Delhi re-registered the Cr.No.165 of 2022 as RC.No.20/2022/NIA/DLI under Section 148, 506(2) IPC Section 13, 38 and 39 of Unlawful Activities (Prevention) Act, 1967 and Section 28 of Arms Act, 1959 dated 30.04.2022. After completing the investigation, the Chief Investigating Officer had filed the final report under Section 173(2) Cr.PC before the Special Court for NIA Cases, Poonamallee, Chennai on 18.08.2022.

2(ii) The respondent along with other accused had filed an application



Crl.MP.No.9420 of 2024

under Section 167(2) Cr.PC in Crl.MP.No.383 of 2022 before the Special Court for NIA Cases, Poonamallee, Chennai and the same was dismissed by an order dated 12.07.2022. Aggrieved over the said order, the respondent/accused preferred an appeal before this Court in Crl.A.No.828 of 2022 and the same was allowed by this Court vide common judgment dated 21.12.2023 with certain conditions.

2(iii). The respondent herein had appeared before the Trial Court on 22.02.2024 and the case was adjourned to 26.02.2024. On 26.02.2024, the respondent did not appeared before the trial Court, however, a petition under Section 317 Cr.PC was filed. The respondent did not appeared on 04.03.2024 a petition under Section 317 Cr.PC was filed. On the next hearing date on 08.03.2024, the respondent did not appeared a petition under Section 317 Cr.PC was filed. On 13.03.2024 also the respondent did not appeared and petition under Section 317 Cr.PC was filed. The respondent appeared before the trial Court on 15.03.2024. Thereafter, the respondent stopped complying with the conditions and on inquiry it was found that the respondent had got himself involved in a new case in Kerala for impersonating as a Police Officer along with other accused. The Kerala State Police arrested the respondent and



Crl.MP.No.9420 of 2024

WEB COPY

others on 27.02.2024 and registered a case in Varriyoorkaavu P.S. in Cr.No.184/2004 under Section 417, 34 IPC and Section 117(c) of KP Act and the respondent/accused and others were remanded to Poojapera Sub Jail, Thiruvananthapuram, Kerala.

2(iv). It is also stated that there are 11 previous cases are pending as against the respondent herein in the State of Tamil Nadu. The respondent is a history sheeted criminal and his name figures in the Rowdy History Sheet in HS.No.449/2020 dated 29.07.2020 and it is live. Further, the respondent was detained under the provisions of Tamil Nadu Act 14 of 1982 (Goondas Act). The respondent is a habitual offender and is in the tendency of committing more offences.

2(v). The respondent herein misused the liberty as he is now in judicial custody in the State of Kerala. If the bail granted to the respondent is not cancelled, the respondent will have the propensity to commit more offences in the future and thereby delay the progress of trial in the present case. The case is posted for framing of charges before the Special Court for NIA Cases, Poonamallee, Chennai. Hence, this petition.



Crl.MP.No.9420 of 2024

WEB COPY

3. The learned Special Public Prosecutor appearing for the petitioner would submit that the respondent has misused the liberty granted to him by this Hon'ble Court. He would submit that the respondent failed to comply with the conditions and it was found that the respondent had got himself involved in new case in the State of Kerala for impersonating himself as a police officer along with other accused. The Kerala State police arrested the respondent and other accused on 27.02.2024 and registered a case in Cr.No.184/2024 under section 417, 34 IPC and Section 117(c) of KP Act and remanded them in Poojapera Sub Jail, Thiruvananthapuram, Kerala. He would submit that the respondent was arrested by the Tamil Nadu Police on 21.07.2024 in connection with FIR in Cr.No.198 of 2024 dated 20.07.2024 for the offences under Section 351(3) BNS Act r/w.67(A) of IT Act on the file of Sembanarkoil Police Station, Mayiladuthurai. He would further submit that the respondent is a frequent offender and tendency of committing more offences, if the bail granted is not cancelled the respondent will have the propensity to commit more offences in future and thereby delay the process of trial.



Crl.MP.No.9420 of 2024

WEB COPY

4. Per contra, the learned counsel appearing for the respondent/first appellant/accused would submit that the respondent had not violated the conditions imposed by this Court in Crl.A.No.828 of 2022 dated 21.12.2023. When the respondent visited Kerala to see his daughter and wife, at that point of time a false has been registered as against the respondent and other persons. Further, the case in Cr.No.198 of 2024 dated 20.07.2024 for the offences under Section 351(3) BNS Act r/w.67(A) of IT Act on the file of Sembanarkoil Police Station, Mayiladuthurai is also falsely registered by the Tamil Nadu Police.

5. We have considered the submissions made on either side and perused the materials available on record.

6. It is seen from the records that the first respondent/appellant/A1 and four other accused persons have filed a petition under Section 167(2) Cr.PC in Crl.MP.No.383 of 2022 in RC.No.20/2022/NIA/DLI before the Special Court under NIA Act 2008, Poonamallee, Chennai. The learned Special Court vide its order dated 12.07.2022 dismissed the petition, the relevant portion of the order states hereunder :-



Crl.MP.No.9420 of 2024

WEB COPY

“10. From the above reading of the Section 43D(5) and (6) of UAPA Act, it is clear that provisions of 167(2) is modified under U.A.(P) Act and from the above reading of 1st proviso to the Section 43(D)(2) of UA(P) Act, 1967 modified from 90 days to 180 days. Accordingly, Point No.1 is answered.

11. The accused were arrested on 21.02.2022. The petition u/s.43(D)(2)(b) of UA(P) Act 1967 for extending the period of Judicial Custody of accused persons beyond 90 days upto 180 days filed by the petitioner cum Govt.Pleader, Nagapattinam, on 17.05.2022 i.e, within a period. Further, the learned Principal District Sessions Judge, Nagapattinam was allowed the petition u/s.43(D)(2) of UA(P) Act vide in CMP.No.1341/2022 on 19.05.2022.

12.Hence, the petitioners/accused are not entitled bail as contemplated u/s.167(2) of Cr.PC but eligible under 1st proviso to the section 43(D)(2) of UA(P) Act, 1967 that too after completed 180 days of remand. Accordingly Point



Crl.MP.No.9420 of 2024

WEB COPY

No.2 answered. For these reasons I am not inclined to allow this application.”

7. As against the order passed in Crl.MP.No.383 of 2022 dated 12.07.2022, on the file of the learned Special Court under NIA Act, 2008 (Sessions Court for Exclusive Trial of Bomb Blast cases) Poonamallee, Chennai refusing to grant bail to the respondent and other accused have preferred the Crl.A.No.828 of 2022 before this Court.

8. It is also seen from records that Union of India represented by Deputy Superintendent of Police, NIA, Chennai filed a petition in Crl.MP.No.1341 of 2022 under Section 43(D)(2)(b) of Unlawful Activities (Prevention) Act, 1967 before the Principal District and Sessions Judge, Nagapattinam to extend the remand period of the respondent/appellant and four others beyond 90 days and upto 180 days. Since, they could not complete the investigation within a period of 90 days. Notice was ordered to the accused persons on 16.05.2022 and the same was served individually who are at Judicial custody in Central Prison, Trichy. The learned Principal District Judge, Nagapattinam passed an order extending the period of



Crl.MP.No.9420 of 2024

investigation and remanded the accused persons from 90 to 180 days. As against the order passed in Crl.MP.No.1341 of 2022 dated 19.05.2022, the respondent and the other accused have preferred Crl.A.No.769 of 2022 before this Court. This Court by common judgment dated 21.12.2023 in Crl.A.Nos.769 and 828 of 2022 allowed the appeals and passed the following common judgment :-

“12. Accordingly, the order dated 19.05.2022 in Crl.M.P.No.1341 of 2022 *dated 19.05.2022, passed by the learned Principal District and Sessions Judge, Nagapattinam, is set aside and consequently, since the appellants are entitled to default bail, the order dated 12.07.2022 in Crl.M.P.No.383 of 2022 passed by learned Judge, Special Court under the NIA Act, 2008, (Sessions Court for Exclusive Trial of Bomb Blast Cases), Chennai at Poonamallee, Chennai, is also set aside. Except the 3rd appellant/A3, who has been granted bail vide order dated 09.11.2023 in Crl.A.No.340 of 2023, the other appellants i.e., A1, A2, A4 and A5 are directed to be released on bail*



WEB COPY



Crl.MP.No.9420 of 2024

on the following conditions :-

(i) Each of the appellants/A1, A2, A4 and A5 shall execute a bond or a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judge, Special Court under the NIA Act, 2008, (Sessions Court for Exclusive Trial of Bomb Blast Cases), Chennai at Poonamallee, Chennai;

(ii) The appellants/A1, A2, A4 and A5 and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(iii) The appellants/A1, A2, A4 and A5 shall appear before the trial Court once in a week i.e., on every Monday at 10.30 a.m., and on all hearing dates, until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under



Crl.MP.No.9420 of 2024

Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.”

9. It is seen from the records that the respondent got himself involved in a new case in Kerala for impersonating himself as Police Officer and Kerala State Police had arrested the respondent and other accused on 27.02.2024 and registered a case in Cr.No.184/2024 under section 417, 34 IPC and Section 117(c) of KP Act and remanded them in Poojapera Sub Jail, Thiruvananthapuram, Kerala. It is also seen that the respondent/first appellant was arrested and remanded to judicial custody by the Tamil Nadu Police on 21.07.2024 in connection with FIR in Cr.No.198 of 2024 dated 20.07.2024 for the offences under Section 351(3) BNS Act r/w.67(A) of IT Act on the file of Sembanarkoil Police Station, Mayiladuthurai.

10. It is brought to the notice of this Court, that the petitioner herein had filed a petition seeking judicial remand of the respondent/first respondent/Sathik Batcha @ ICAMA Sathik in Crl.MP.No.35 of 2025 in Spl.SC.No.02 of 2022 on the file of the learned Special Court under NIA Act



Crl.MP.No.9420 of 2024

2008 (Special Court for Exclusive Trial of Bomb Blast cases), Poonamalle, Chennai. The learned Special Court under NIA Act, 2008, (Special Court for Exclusive Trial of Bomb Blast cases), Poonamallee, Chennai by an order dated 09.01.2025 passed the following order :-

“1.On 26.11.2024, A1 M.Sathik Batcha @ ICAMA Sathik (A1) was absent and his counsel filed petition under Section 317 Cr.PC stating that he was arrested by B1 North beach Police Station on the NBW issued by the VII Metropolitan Magistrate George Town in CC.No.3899 of 2017 and now he was confined in Trichy Central Prison, hence this Court dismissed the petition under Section 317 Cr.PC and issued NBW warrant. Thereafter, the petitioner/complainant returned the NBW and request to issue PT Warrant and this Court issued PT warrant.

2.Today the accused has been produced on PT warrant and this memo filed by the prosecution



Crl.MP.No.9420 of 2024

stating that the A1 violated the bail conditions of the Hon'ble High Court Madras passed in Crl.Nos.769 and 828 of 2022 dated 21.12.2023. The respondent was arrested in FIR.No.198 of 2024 dated 20.07.2024 for the alleged offences under Section 67(A) of IT Act.

3.Due to the above, it is clear A1 violated the bail conditions of the Hon'ble High Court, Madras and hence he is remanded to Judicial Custody.”

11. It is relevant to refer Section 439(1)(a) of Cr.PC :-

“439. Special powers of High Court or Court of Session regarding bail.—(1) A High Court or Court of Session may direct,—

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of section 437, may impose any condition which it considers necessary for the purposes mentioned in that sub-



section;”

12. It is also relevant to refer Section 437(3)(a)to(c) Cr.PC :-

“437. When bail may be taken in case of non-bailable offence -

(3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code (45 of 1860) or abatement of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1), 4[the Court shall impose the conditions,—

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is



WEB COPY



Crl.MP.No.9420 of 2024

accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence, and may also impose, in the interests of justice, such other conditions as it considers necessary.”

13. In the present case, the respondent/first appellant failed to comply with the conditions imposed by this Court in Crl.A.Nos.769 and 828 of 2022 dated 21.12.2023. There are merits in this petition. We are inclined to allow this petition.

14. We are of the opinion, if the bail granted to the respondent/first appellant/accused is not cancelled, the respondent will have the propensity to commit more offences in future and thereby, delay the process of trial in



Crl.MP.No.9420 of 2024

WEB COPY

Spl.SC.No.02 of 2022 pending on the file of the learned Special Court under NIA Act, 2008, (Special Court for Exclusive Trial of Bomb Blast cases), Poonamallee, Chennai.

15. In the result, the criminal miscellaneous petition stands allowed and the bail granted to the respondent/first appellant/Sathik Batcha in Crl.A.No.828 of 2022 vide common judgment dated 21.12.2023 is hereby cancelled.

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

29-01-2025

Index : Yes/No

Internet : Yes/No

To

1. The Special Court under NIA Act, 2008, (Special Court for Exclusive Trial of Bomb Blast cases), Poonamallee, Chennai
2. The Special Public Prosecutor, NIA Cases, High Court Madras.



WEB COPY



Crl.MP.No.9420 of 2024

S.M.SUBRAMANIAM, J.
and
M.JOTHIRAMAN, J.
tsh

Crl.MP.No.9420 of 2024
in Crl.A.No.828 of 2022

29.01.2025.