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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.07.2026

Pronounced on : 24.08.2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No. 202 of 2026

B.Syed Ali @ Zubair @ Anees @ Abu backer
S/o.Basheer,
Punnakattuvila Veedu Ayngmam,
Prasalla Post,
Thiruvananthapuram District.

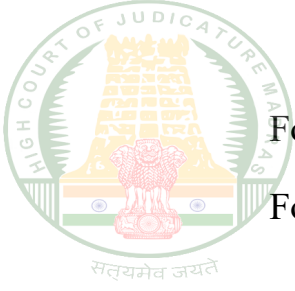
..Appellant(s)

Vs

Union of India Rep by its,
Inspector of Police,
National Investigation Agency,
Chennai - 600010.
(Ref:RC/02/2020/NIA/DLI)

..Respondent(s)

Prayer: Criminal Appeal filed under Section 21(4) of National Investigation Agency Act, 2008 to SET ASIDE the order passed in Crl.M.P.No.216/2025 dated 18.07.2025 on the file of the Hon'ble Special Court under the National Investigation Agency Act, 2008, Sessions Court for Exclusive Trial for Bomb Blast Cases, and SPL Court for POTA Cases, Chennai at Poonamallee, Chennai and GRANT BAIL to the Appellant in Spl.S.C.No.23 of 2022 pending on the files of the Learned Special Court under NIA Act and pass such or other suitable and appropriate orders in the circumstances this Hon'ble Court.



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For Appellant(s): Mr.I.Abdul Basith

For Respondent(s): Mr.R.Karthikeyan

Special Public Prosecutor for NIA Cases

J U D G M E N TPer : Dr.Anita Sumanth, J.

The appellant is aggrieved by an order passed on 18.07.2025 by the District and Sessions Judge (Special Court) under the National Investigating Agency Act, 2008, rejecting the bail petition filed by him.

2. Mr.I.Abdul Basith, learned counsel, who appears for the appellant would submit that the impugned order rejecting the bail is cryptic, contains no discussion of the submissions made and has not considered the case in proper perspective. He would also point to the fact that the appellant was arrested on 21.12.2020 and though charges were filed around that time, there has been no progress in the matter thus far. Hence, there is no justification in the respondent keeping the appellant under incarceration on the one hand, while not proceeding with the trial, on the other.

3. On the merits of the allegations made, appellant counsel would submit that there is no truth in them, and that apart, no prima facie case has been made out, nor any specific overt act alleged as against the appellant. The charges relate to the provisions of the Unlawful Activities (Prevention) Act, 1967 (in short, 'UA(P)A') which require a high degree of threshold to be discharged by



the prosecution. In the absence of any material placed on record by the respondent to substantiate the charges foisted on the appellant, the impugned order is bad in law and ought to be set aside.

4. The appellant relies on the following decisions : (i) *Union of India v K.A.Najeeb*¹, (ii) *Mohamed Zaid v Union of India, Rep. by its Inspector of Police, National Investigation Agency, Chennai*², (iii) *Vernon v The State of Maharashtra and Ors*³, (iv) *Javed Gulam Nabi Shaikh v State of Maharashtra and Ors*⁴, (v) *Sheikh Javed Iqbal v State of Uttar Pradesh*⁵, (vi) *Manish Sisodia v Directorate of Enforcement*⁶, (vii) *Arvind Dham v Directorate of Enforcement*⁷, (viii) *MD Heydaitullah v National Investigation Agency*⁸, (ix) *In RE : Creation of Special Exclusive Courts in Suo Motu Writ Petition (Criminal) Nos.1 of 2026*⁹, and (x) *Syed Iftikhar Andrabi v National Investigation, Jammu*¹⁰.

¹ AIR 2001 SC 712

² Crl A.No.951 of 2024 dated 28.4.2024 (DB : MHC)

³ AIR 2023 SC 3926

⁴ (2024) 9 SCC 813

⁵ Manu/SC/0716/2024

⁶ 2024 INSC 595

⁷ Manu/SC/0028/2026

⁸ SLP (Crl) No. 8799/2025 dated 10.02.2026

⁹ Suo Motu Writ Petition (Criminal) No.1 of 2026 dated 24.3.2026

¹⁰ 2026 INSC 503



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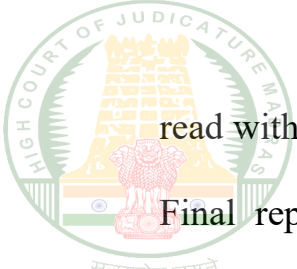
5. The prosecution for its part, represented by Mr.R.Karthikeyan, learned Special Public Prosecutor, would rely substantially on the fact that the appellant had earlier been denied bail, which order was the subject matter of challenge in Crl.A.No. 175 of 2023. By an order dated 18.06.2024, this Court had rejected the appeal, returning a finding that the offences against the appellant were grave and that his detention was thus proportionate to his role.

6. The prosecution would distinguish the cases cited by the appellant pointing out that the facts are different from the present case and the overt act attributed to the appellant has been found to be prima facie true. In fact, *Najeeb's* case has been noticed by the Bench earlier while rejecting this appellant's appeal and hence there is nothing to be gained by the appellant re-visiting the identical position yet again.

7. In reply, learned counsel for the petitioner would submit that the earlier order had not taken into consideration material evidence that would enure to the appellants' benefit.

8. We have heard both learned counsel.

9. A case had been registered in Crime No. 03 of 2019 on 28.12.2019 relating to IPC offences that came be entrusted to the National Investigating Agency on 17.01.2020. The Kochi Branch of the National Investigating Agency took up the investigation, re-registering the original case under Sections 120-B



read with 465, 468, 471 of IPC and 13 and 18 of UA(P)A as against 12 accused.

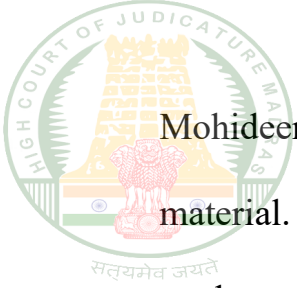
Final report under Section 173 CrPC was filed against the 12 accused on 23.06.2020.

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10. On continuing the investigation, after obtaining necessary permissions, the present appellant was arraigned as A13 and arrested on 21.12.2020. A first supplementary charge-sheet under Section 173 CrPC was filed before the Special Court on 14.06.2021 charging the appellant under Sections 120-B, 471 and 201 IPC, Sections 18, 38 & 39 of UA(P)A and Sections 4 & 5 of Explosive Substances Act.

11. According to the prosecution, A13 was directly involved in a terror conspiracy in support of ISIS and Daish. In the earlier order of this Court passed on 18.06.2024 in Crl A.No.375 of 2023, the Court has noted the allegations in relation to purchase of Potassium Nitrate, Sugar and other substances for operating IED as preparation for jihad and for furthering the activities of the aforesaid organisations.

12. At para 7 of that order, the Court has also recorded the depositions of LW146, LW147, LW154, LW160, LW161 and LW162, who have spoken about secret meetings held between appellant and other individuals in relation to ISIS and jihad, travel plans of the appellant to Bangalore for performing Hijirah to establish ISIS in India, meetings in Cuddalore to discuss jihad and joining ISIS, that the appellant had participated in, associating with the main accused Khaja



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Mohideen/A11, and about destruction of pen drives containing incriminating material. The Court thus recorded a finding that a prima facie case had been made out attracting offences under Chapters IV and VI of UA(P)A and hence the bar under Section 43D(5) of UA(P)A would stand attracted.

13. On Article 21, referring to *Najeeb's* case and an order passed in CrI.A.No. 340 of 2023 dated 09.11.2023 [*Mohamed Irfan v Union of India, Represented by the Inspector of Police, National Investigation Agency, Chennai*], the Bench had held that the question of whether detention would offend Article 21 of the Constitution would depend on the facts and circumstances of each case, the gravity of the offence, the role and the nature of evidence relied upon by the prosecution. Order dated 18.6.2024 has attained finality and with it, the establishment of a prima facie case as against the appellant.

14. Mr.Basith would now urge that we review order dated 18.06.2024. Though he states that material evidence was not taken into consideration earlier, reference made now is only to invoices for purchase of potassium nitrate and batteries that do not in any way, improve the case of the appellant.

15. According to the appellant, the purchase of potassium nitrate was innocuous as it is essentially a fertiliser used in agriculture. Likewise, sugar and batteries are items of daily use. We reject this argument as, while the aforesaid items separately taken may not be of much consequence, the case of the



prosecution relates to the items taken together for operating an IED as a preparation for violent jihad.

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16. The only other aspect that remains is the duration of incarceration from 17.12.2020. While we are not inclined to review our earlier order dated 18.06.2024, we record affidavit dated 21.07.2026 filed by the respondent, confirming that cognizance has been taken vide Spl.S.C.No.23 of 2022, charges have been framed as against A1 – A19 on 10.3.2025 and 11.3.2025, trial has commenced and 7 prosecution witnesses i.e., PW1 – PW7 have been examined. The prosecution has undertaken to prune the list of witnesses to a maximum of 90, and further undertake to take all efforts to complete the trial within a period of six months.

17. This appeal is dismissed with no order as to costs.

(A.S.M, J.) (S.M, J.)
24.08.2026

Index: Yes
Speaking order
Neutral Citation: Yes
ssm

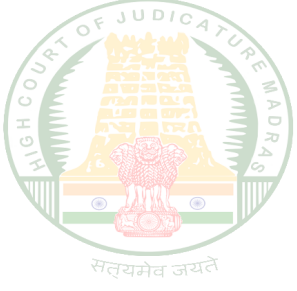


To

1. The Inspector of Police,
National Investigation Agency,
Chennai - 600010.

2. The District and Sessions Judge,
The Special Court under the National Investigation Agency Act, 2008,
Sessions Court for Exclusive Trial of Bomb Blast Cases and Special Court
for POTA Cases, Poonamallee, Chennai.

3. The Public Prosecutor, High Court of Madras.



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DR.ANITA SUMANTH, J.
AND
SUNDER MOHAN, J.

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