

ITEM NO.28

COURT NO.3

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CRIMINAL) Diary No.29401/2024

[Arising out of impugned final judgment and order dated 12-12-2023 in CRLA No. 542/2023 passed by the High Court of Judicature at Madras]

STATE REPRESENTED BY: THE DEPUTY SUPERINTENDENT OF POLICE Petitioner(s)

VERSUS

ASIF MUSTHAHEEN Respondent(s)

(IA No.223827/2024-CONDONATION OF DELAY IN FILING SLP, IA No.223828/2024-CONDONATION OF DELAY IN REFILEING SLP)

Date : 11-11-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s)

Mr. Sidharth Luthra, Sr. Adv.
Mr. V. Krishna Moorthy, Sr. AAG
Mr. Sabarish Subramanian, AOR
Mr. D. Kumanan, Adv.
Ms. Deepa S., Adv.
Mr. Sheikhj F. Kalia, Adv.
Mr. Veshal Tyagi, Adv.
Mr. Chinmay Anand, Adv.
Ms. Azka Sheikh Kalia, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. We have heard learned Senior counsel for the petitioner at a considerable length and perused the record.
3. While we are not inclined to interfere with the impugned order passed by the High Court granting bail to the Respondent primarily on account of long incarceration, we expressly disapprove of the observations made by the High Court in Para Nos.15 to 22 regarding

(i) the evidentiary value of the text messages; (ii) *prima facie* no offence under Section 38 (2) of the Unlawful Activities (Prevention) Act 1967 Act is made out; (iii) and whether there was any illegality/irregularity on the issue of sanction. Such observations by the High Court while deciding a bail application are apparently out of context, and the same are thus expunged, and shall not be treated as a precedent for any other matter.

4. The Special Leave Petition is, accordingly, dismissed.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)
ASSISTANT REGISTRAR