

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

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).5243-5244/2005

(From the judgement and order dated 28/03/2005 in CRLOP No. 39950/2004 & CRLOP No. 40103/2004 of The HIGH COURT OF MADRAS)

UNION OF INDIA

Petitioner(s)

VERSUS

D. YUVARAJ & ORS.

Respondent(s)

(With office report )

[For final Disposal]

Date: 03/05/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Petitioner(s)

Mr. A. Sharan, ASG

Mr.Vikas Sharma, Adv.

Mr. Shishir Pinaki, Adv.

Mr.Amit Anand Tiwari, Adv. for

Ms. Sushma Suri,Adv.

For Respondent(s)

Mr. K.T.S. Tulsi, Sr. Adv.

Mr. V.J. Francis,Adv.

Mr. Anupam Mishra, Adv.

Mr. C.M. Jayakumar, Adv.

Mr. Jenis, Adv.

For RR 4-5

Mr. R.K. Jain, Sr. Adv.

Mr. Alok Agrawal, Adv.

Mr. Sanjay Chabra, Adv.

Ms. Susmita Lal ,Adv

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The Appeal stands allowed in terms of the signed order.

(J.S. Rawat)

(Khushi

Ram)

AR-cum-PS

Court M

aster

[Signed order is placed on the file].

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 519 OF 2006.  
[Arising out of SLP(Crl) NOS. 5243-5244 of 2005]

Union of India.

Appellant(s)

Versus

D. Yuvaraj & Ors.

Respondent(s)

O R D E R

Leave granted.

The Intelligence Officer, Narcotics Control Bureau, South Zonal

Unit, Chennai filed complaint against the accused-respondent nos. 1 to 6.

Respondent No.6, who is stated to be a resident of United States  
of

America, is not before us. The respondents are the accused of committing

the offences punishable under Section 8(c) read with Sections 22, 23, 27A and 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 [for short "the Act"] read with Rule 58 of The Narcotic Drugs and Psychotropic Substances Rules, 1985 [for short "the Rules"] .

Respondent Nos. 1, 2 and 3 are the main accused. Respondent Nos. 4 and 5, being the couriers, are alleged to have abetted in the commission of the offence. Criminal Original Petition Nos. 39950/2004 and 40103/2004 were moved by the main accused (A-1 to A-3) and the co-accused (A-4 and A-5) respectively, seeking grant of bail. The High Court by the impugned order has granted bail to both the sets of accused-respondents.

Counsel appearing for the respondents could not support the impugned judgment on the findings recorded therein. However, it was contended that certain other legal submissions were advanced by the respondents before the High Court which have not been taken note of. Trying to justify the grant of bail, it has been submitted that on the legal submissions, which were not taken note of by the High Court, the respondents would be entitled to the grant of bail. In view of this, without expressing any opinion, lest it may prejudice the accused-respondents, the impugned order is set aside and the case is remitted back to the High Court for a fresh decision in accordance with law. Resultantly, bail granted to Respondent Nos.1, 2 and 3 is set aside. Mr. K.T.S. Tulsi, Senior Counsel

appearing for the main accused, assures us that A-1 to A-3 would surrender before the authorities concerned immediately.

Respondent Nos. 4 and 5 are granted interim bail till the decision of their petition by the High Court afresh.

We make it clear that setting aside of bail of Respondent Nos. 1, 2 and 3 should not be taken as an expression of opinion on merits and, if the High Court feels that a case for grant of bail is made out, the High Court would be at liberty to do so after recording reasons for the same. Similarly, the High Court would be at liberty to grant/cancel bail to Respondent Nos. 4 and 5.

Criminal Original Petitions [Crl.O.P. Nos. 39950 and 40103 of 2004] are restored to their original numbers. Parties would be at liberty to raise all contentions available to them and file additional documents, if any, before the High Court.

We are given to understand that the High Court is closed for summer vacation. We would request the Hon'ble Chief Justice to post the petitions for hearing and disposal before an appropriate Bench preferably during the vacation and, in any case, immediately on the reopening of the High Court after summer recess.

The appeal stands allowed accordingly.

.....J.  
(ASHOK BHAN)

New Delhi;  
May 03, 2006.

.....J.  
(Dr. AR. LAKSHMANAN)