

SUPR EME COUR T OF I ND I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s).7116/2008

(From the judgement and order dated 04/09/2008 in CRLMP No.1/2008
and CRLOP No.18985/2008 of The HIGH COURT OF MADRAS)

P.SUNDARAJAN & ORS.

Petitioner(s)

VERSUS

STATE REP.BY INSPECTOR OF POLICE & ANR.

Respondent(s)

(With appln(s) for stay, anticipatory bail, stay and office report)

With S.L.P. (Crl.) Nos.7647-7648 of 2008

(With appln(s) for anticipatory bail, stay and office report)

Date: 03/08/2009 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s) Mr. P.S. Patwalia, Sr. Adv.

Mr. Jayanth Muth Raj, Adv.

Ms. Malavika G., Adv.

Mr. P.V. Dinesh, Adv.

Mr. K.V. Viswanathan, Sr. Adv.

Mr. Anil Kaushik, Adv.

Mr. Deepak Jain, Adv.

Ms. Mary Mitzy, Adv.

Mr. G.S. Chauhan, Adv.

Mr. Shiv Prakash Pandey, Adv.

For Respondent(s)

Mr. G. Sivabalamurugan, Adv.

Mr. L.K. Pandey, Adv.

Mr. M.N. Rao, Sr. Adv.

Mr. S. Thananjayan, Adv.

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UPON hearing counsel the Court made the following
ORDER

S.L.P. (Crl.) No.7116/2008:

Leave granted.

Heard learned counsel for the parties.

The appeal is allowed.

S.L.P. (Crl.) Nos.7647-7648/2008:

Heard learned counsel for the parties.

In our view, the petitioner should appear

before the court concerned and apply for regular bail. In case such an application is filed, the same shall be considered on its own merits without being influenced by any observation made in the impugned order.

The special leave petitions are, accordingly, disposed of.

[Alka Dudeja]
Court Master

[Savita Sainani]
Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1400 OF 2009
(Arising out of S.L.P. (Crl.) No.7116 of 2008)

P. Sundarajan & Ors.

...Appellant(s)

Versus

State Rep. by Inspector of Police & Anr.

...Respondent(s)

With S.L.P. (Crl.) Nos.7647-7648 of 2008

O R D E R

Criminal Appeal No.1400/2009 @ S.L.P. (Crl.) No.7116/2008:

Leave granted.

Heard learned counsel for the parties.

By the impugned order, the Madras High Court has recalled
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its earlier order passed on 5 August, 2008 in Criminal O.P. No.18985 of 2008 whereby anticipatory bail was granted to the appellants. Undisputedly, before the passing of the impugned order, no opportunity of hearing was afforded to the appellants; as such, the impugned order is per se fit to be set aside on this ground alone.

In the result, the appeal is allowed, impugned order rendered by the High Court is set aside and the matter is remitted to it to consider the petition for recall on its own merits in accordance with law after giving opportunity of hearing to the parties.

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S.L.P. (Crl.) Nos.7647-7648/2008:

Heard learned counsel for the parties.

In our view, the petitioner should appear before the court concerned and apply for regular bail. In case such an application is filed, the same shall be considered on its own merits without being influenced by any observation made in the impugned order.

The special leave petitions are, accordingly, disposed of.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
August 03, 2009.