

ITEM NO.16

Court 3 (Video Conferencing)

SECTION II-C

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

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s).25082/2020

(Arising out of impugned final judgment and order dated 10-03-2020 in CRLA No. 854/2019 and 21-09-2020 in CRLMP No. 5631/2020 passed by the High Court of Judicature at Madras)

MOHAMMED ASARUDEEN**Petitioner(s)****VERSUS****UNION OF INDIA****Respondent(s)**

(WITH I.R. and IA No.126291/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.126292/2020-EXEMPTION FROM FILING O.T. and IA No.126290/2020-PERMISSION TO FILE SLP)

Date : 11-12-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Mr. S.Nagamuthu, Sr. Adv.
 Mr. A. Selvin Raja, AOR
 Mr. S.A.S.Alaudeen, Adv.
 Mr. A. Raja Mohamed, Adv.

For Respondent(s)

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

- 1 Permission to file the Special Leave Petitions granted.

- 2 Mr S Nagamuthu, learned Senior Counsel appearing on behalf of the petitioner has urged the following submissions:
 - (i) The High Court, while considering a substantive appeal under the provisions of the Unlawful Activities (Prevention) Act 1967 against the denial of bail by the trial court, should have, but has not, applied its mind to the statutory requirements of Section 43D;

- (ii) Bail has been granted to similarly situated accused by a co-ordinate bench of the High Court by its orders dated 6 September 2019 (Annexures P-5 and P-6) and the High court should have granted bail in the present case on parity of reasoning;
- (iii) Though the High Court has granted liberty to the petitioner to apply for bail before the trial court, after completion of the recording of the evidence of fifteen witnesses whose identity has been protected on the application of the prosecuting agency, there is no reasonable likelihood of the evidence being recorded by the extended date of 31 January 2021; and
- (iv) The High Court, though it was seized of a substantive appeal against the order of the trial court denying bail, failed to determine whether there was any error in the findings of the trial court, and hence an order of remand is warranted to the High Court for reconsideration of the appeal against the denial of bail.

3 Issue notice, returnable in six weeks.

4 Liberty to serve the Central Agency, in addition.

5 The respondent shall file a counter affidavit within four weeks indicating, *inter alia*, the progress which has been made in the trial in pursuance of the directions of the High Court.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER