

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 its earlier order passed on 5th 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.

New Delhi,
August 03, 2009.

.....J.
[B.N. AGRAWAL]

.....J.
[G.S. SINGHVI]



JUDGMENT