

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. _____ OF 2025
[arising out of SLP (Crl.) No. 7020 of 2019]**

NAJMA & ORS.

APPELLANTS

VERSUS

THE INSPECTOR OF POLICE & ANR.

RESPONDENTS

ORDER

1. Leave granted.
2. The appellants were the petitioners before the High Court of Judicature at Madras. The High Court, *vide* judgment and order dated July 25, 2019, granted the appellants' prayer for bail under Section 439, Code of Criminal Procedure, 1973¹ but with a condition. The appellants have been required by such condition to handover possession of a ground floor and half of a portion namely 400 sq. ft. constructed area and the entire second floor to the *de facto* complainant within a period of two weeks. This appeal, directed against the said order, is restricted to such condition only.
3. The impugned condition is numbered as 9 [b]. Undoubtedly, such a condition could not have been imposed by the High Court while granting bail.

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JATINDER KOUR
Date: 2025.08.22
16:50:42 [S]
Reason: []

The High Court, while hearing an application under Section 439, Cr. PC is not supposed to pass a decree for restoration of possession. In several decisions of

1 Cr. PC

this Court, viz. Ramesh Kumar vs. State (NCT of Delhi)², St. George Dsouza vs. State (NCT of Delhi)³ and Dilip Singh vs. State of M.P. & Anr.⁴ as well as the decisions referred to therein, the legal position has been made clear.

4. The offending condition for grant of bail, that is, condition no. 9 [b] is, accordingly, set aside. Interim protection, granted earlier, is made absolute.

5. Consequently, the appeal stands allowed.

6. This order shall, however, not preclude the private parties to approach the Mediation Centre attached to the High Court. We record that both sides are agreeable to explore the possibility of a mediated settlement.

7. In such view of the matter, the private parties may appear before the Mediator, Mediation Centre of the High Court on 30th April, 2025.

8. Should no settlement be arrived at before the Mediator, the *de facto* complainant shall be at liberty to pursue the channel of civil litigation seeking, *inter alia*, recovery of possession.

9. Pending application(s), if any, shall stand disposed of.

.....J.
[DIPANKAR DATTA]

.....J.
[MANMOHAN]

**New Delhi;
April 01, 2025.**

² (2023) 7 SCC 461

³ (2023) SCC OnLine SC 1940

⁴ (2021) 2 SCC 779

ITEM NO.2

COURT NO.14

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

Petition(s) for Special Leave to Appeal (Crl.) No(s). 7020/2019

[Arising out of impugned final judgment and order dated 25-07-2019 in CRLOP No. 15084/2019 passed by the High Court of Judicature at Madras]

NAJMA & ORS.

Petitioner(s)

VERSUS

THE INSPECTOR OF POLICE & ANR.

Respondent(s)

IA No. 117693/2019 - EXEMPTION FROM FILING O.T.

IA No. 214356/2024 - SUBSTITUTED SERVICE

Date : 01-04-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) :Mr. M. A. Chinnasamy, AOR
Mr. C Raghavendren, Adv.
Mrs. C Rubavathi, Adv.

For Respondent(s) :Mr. Sabarish Subramanian, AOR
Mr. Veshal Tyagi, Adv.
Mr. Vishnu Unnikrishnan, Adv.
Ms. Jahnavi Taneja, Adv.
Mr. Danish Saifi, Adv.

Mr. Ratnakar Dash, Sr. Adv.
Mr. Shilp Vinod, AOR
Mr. Nawaz Sheriff, Adv.
Mr. Arun Prakash, Adv.

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

1. Leave granted.
2. The appeal stands allowed in terms of the signed order.

3. Pending application(s), if any, stand disposed of.

(JATINDER KAUR)
P.S. to REGISTRAR

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)

[Signed order is placed on the file]