

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

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 10760/2020

(Arising out of impugned final judgment and order dated 12-04-2019 in BLAPL No. 4110/2018 passed by the High Court of Orissa at Cuttack)

GOVT. OF INDIA MINISTRY OF HOME AFFAIRS
NARCOTIC CONTROL BUREAU

Petitioner(s)

VERSUS

MD. WASIM AKRAM

Respondent(s)

(FOR ADMISSION and I.R. and IA No.68915/2020-CONDONATION OF DELAY IN FILING and IA No.68916/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 28-10-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE HRISHIKESH ROYFor Petitioner(s) Mr. S.V.Raju, ASG
Ms. Alka Agrawal, Adv.
Mr. S.K.Tyagi, Adv.
Mr. B. V. Balaram Das, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E RApplication for exemption from filing c/c of the
impugned judgment is allowed.IA No.68915/2020-CONDONATION OF DELAY IN FILINGThe impugned order is dated 12th April, 2019 in terms whereof bail has been granted to the respondent in a case under Narcotics Drugs and Psychotropic Substances Act. Learned Additional Solicitor General sought to

impress us with the importance of the matter by saying that in view of the provisions of Section 37 of the Act, there is bar to grant of bail in such cases especially where large quantities of *ganja* have been seized. He also seeks to submit by reference to the impugned order that these aspects have not been dealt with in the impugned order.

We do find some substance on the merits of what the learned ASG has advanced before us. But there is a threshold bar for the petitioner in view of a delay of 254 days which we want to deal with now.

This is not the only case but many cases are coming before this Court from different Government agencies after inordinate delays showing complete inefficiency in administration of their legal departments. That the same should happen to the legal department of the Narcotics Control Bureau (NCB) reflects an even sadder situation. In an order recently passed in S.L.P. (Civil)Diary No.9217 of 2020 - *State of Madhya Pradesh v. Bheru Lal* dated 15th October, 2020, we have dealt with this approach and have observed that these pedantic excuses are no more admissible in view of the technology which is now assisting even the Government agencies and have referred to the judgment of this Court in the case of *Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr.* (2012) 3 SCC 563. Eight years have passed since that judgment, but still any

counsel as advanced in that judgment seems unheeded!

A reading of the application for condonation of delay shows that the proposal to file the SLP was submitted on 2nd May, 2019 and the proposal was forwarded from the office of the Deputy Legal Advisor, NCB headquarters to Ministry of Law and Justice on 23rd July, 2019 after two and a half months. On 26th September, 2019 the Kolkata Zone submitted the draft SLP and additional documents to the NCB headquarters, the vetted SLP was received in Central Agency Section only on 22.11.2019 i.e. after about two months. We have no doubt that officers have been grossly negligent in conduct of the legal affairs of the department.

We have also in the judgment in *Bheru Lal's case* (supra) referred to the cases which can be categorized as "certificate cases". The object is to obtain certificate of dismissal from the Supreme Court to put a quietus to the issue, and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is an endeavour to complete formality to save the skin of the officers who may be at default in such process to be followed in time. We are not willing to countenance this anymore.

We are thus, inclined to impose cost on the petitioner/Narcotics Control Bureau of Rs.25,000/- (Rupees twenty five thousand) to be deposited with the Mediation and Conciliation Project Committee within a

period of four weeks. The amount be recovered from the officer/officers responsible for the delay in filing the Special Leave Petition and a certificate of recovery of the said amount will also be filed in this Court within the said period of time.

Notice returnable in three weeks subject to the aforesaid.

S.L.P.(Criminal) Diary No(s). 10760/2020

Notice subject to the orders be passed in the aforesaid application for condonation of delay, returnable in three weeks.

(ANITA MALHOTRA)
COURT MASTER

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR