

ITEM NO.7 Court 12 (Video Conferencing) SECTION II-B

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 for Special Leave to Appeal (CrI.) Nos. 4711-4712/2020

(Arising out of impugned final judgment and order dated 30-06-2020 in CRM No. 4320/2020 30-06-2020 in CRAN No. 2506/2020 passed by the High Court at Calcutta)

MANOJ KUMAR SINGH

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL & ANR.

Respondent(s)

WITH

SLP(CrI) No. 4053/2021 (II-B)

(IA No. 65711/2021 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 65709/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 06-10-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R. SUBHASH REDDY  
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s)

Ms. Ashima Mandla, Adv.  
Ms. Mandakini Singh, Adv.  
Mr. Fuzail Ahmad Ayyubi, AOR

Mr. Pradeep Mittal, Adv.  
Mr. Raj Kishor Choudhary, AOR  
Mr. Shakeel Ahmed, Adv.  
Ms. Malvika Raghavan, Adv.  
Mr. Anupam Bhati, Adv.  
Mr. Nakul Chaudhary, Adv.  
Ms. Girjesh Chaturvedi, Adv.  
Mr. Yadaiah Jetti, Adv.

For Respondent(s)

Ms. Nandini Sen Mukherjee, AOR

Mr. K.M. Nataraj, ASG  
Mr. Mukesh Kumar Maroria, AOR  
Mr. Shailesh Madiyal, Adv.  
Mr. Sharath Nambiar, Adv.  
Ms. Priyanka Das, Adv.

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

Heard Ms. Ashima Mandla and Mr. Pradeep Mittal, learned counsel for the petitioners and Mr. K.M. Nataraj, learned Additional Solicitor General for the Union of India, Respondent No.2.

The Special Leave Petitions are filed against the orders rejecting their applications for grant of bail pending trial. The Petitioners are sought to be prosecuted in Crime No. 163/2014 for alleged offence under Section 43(b) read with Section 20 of the NDPS Act. On the complaint filed by the Senior Intelligence Officer, Directorate of Revenue Intelligence, Siliguri, Regional Unit, crime was registered. It is alleged that the petitioners Manoj Kumar Singh (A-3) and Sanjay Singh (A-7) alongwith seven others were transporting 9310 Kgs of Ganja in the carrier truck which was escorted by a white coloured Maruti Gypsy. A Gypsy and a truck were intercepted and the material were recovered from the truck. It is also alleged that accused were dressed in Army Uniform and were carrying firearms with them. On the aforesaid allegations, the complaint was registered on 30.01.2014.

Mainly it is the case of the petitioners that by this time they have completed more than seven years in judicial custody and in view of the judgment of this Court in the case of "*Supreme Court Legal Aid Committee Representing Undertrial Prisoners Vs. Union of India & Ors.*" reported in (1994) 6 SCC 731, they are entitled for grant of bail, as they have served more than five years under the judicial custody.

On the other hand, it is mainly contended by Shri K.M. Nataraj, learned ASG that merely because they have served more than seven years in judicial custody, that by itself is not a ground for grant of bail. It is fairly submitted that both the petitioners have not been involved in any other crime earlier. It is further submitted that in view of the provisions under Section 27 of NDPS Act, petitioners are not to be enlarged on bail, pending trial.

When earlier application for bail was rejected in the case of Shri Sanjay Singh, while dismissing the special leave petition by order dated 22.02.2016, this Court issued direction to the Trial Court to make an endeavour to expedite the trial. Further on second round when the bail was rejected by the Trial Court and the High Court, matter came before this Court in SLP (Cr1.) No.2722/2017. Again by order dated 12.07.2018 while dismissing the special leave petition, this Court directed for expeditious completion of the trial. There is yet another order dated 11.12.2019 passed by the High Court of Calcutta by which directions were issued to the trial court to expedite the trial. In spite of various directions by this Court and the High Court for reasons beyond the control, it appears that trial is at the stage of examination of PW-1 only. Though we are conscious of that huge quantity of Ganja was seized, but at the same time keeping in mind that the petitioners have already served more than seven years in judicial custody, we deem it more appropriate a fit case to enlarge the petitioners on bail.

Accordingly, it is directed that petitioners shall be released on bail subject to condition of depositing their passports before

the Trial Court within a period of two weeks from today. It is open to the Trial Court to impose any other conditions to secure their presence during trial.

It is also made clear that if there is any attempt on the part of the petitioners to protract the trial or to interfere with the witnesses, we grant liberty to the respondents to bring to the notice of this Court by moving appropriate application for passing suitable orders.

Subject to above directions, Special Leave Petitions are disposed of.

Pending applications shall also stand disposed of.

(RAJNI MUKHI)  
COURT MASTER

(DIPTI KHURANA)  
COURT MASTER