SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Premwati Vs. Narcotics Control Bureau

Premwati Vs. Narcotics Control Bureau

SooperKanoon Citation : sooperkanoon.com/691417

Court : Delhi

Decided On : Mar-14-2005

Reported in : 119(2005)DLT51; 2005(81)DRJ1

Judge : Badar Durrez Ahmed, J.

Acts : Narcotic Drugs and Psychotropic Substances Act - Sections 37

Appeal No. : Bail Appln 43/2005

Appellant : Premwati

Respondent : Narcotics Control Bureau

Advocate for Def. : Satish Aggarwal, Adv.

Advocate for Pet/Ap. : Sunil Mehta, Adv

Judgement :

Badar Durrez Ahmed, J.

1. The learned counsel for the petitioner has argued this application for bail on merits. He submitted that the petitioner is innocent inasmuch as the case for the prosecution is that she accompanied her husband on the morning of 30.04.2001 who went to the house of co-accused Usha, to deliver 1 kg of heroin. The learned counsel for the petitioner submitted that it is the husband who is alleged to have

delivered the said 1 kg heroin to Usha. On the same day, i.e., on 30.04.2001, at a later point of time, while Usha was about to deliver 1 kg of heroin to some other person, Usha was apprehended by the officials of the Narcotics Control Bureau (NCB). This led to her disclosing another 2 kgs of heroin which was recovered from her house. Later on that evening, a disclosure statement of Usha was recorded wherein she is alleged to have stated that the said 1 kg of heroin was supplied by the husband of the present petitioner. On the next day, i.e., on 01.05.2001, the petitioner and her husband were apprehended and Usha identified these two persons on the basis of photographs. The learned counsel for the petitioner submitted that if at all it is the petitioner's husband who is involved in the offence and not the petitioner. He further submitted that the charges have been framed but the trial is going on at a very slow pace despite directions of this court to expedite the trial and to complete the trial within six months. He further submitted that the witnesses, who were to depose with regard to the delivery of 1 kg of heroin by the petitioner and her husband to the said co-accused Usha, were not coming forward. In fact, he pointed out that the only witness who is alleged to have seen the petitioner and her husband go to the premises of Usha is not available and his whereabouts are unknown and evidence in respect of this witness has been closed by an order of the trial court dated 07.03.2005. He further submitted that the petitioner is a heart patient and on several occasions has been granted interim bail by this court and she has never misused the facility of interim bail. thereforee, according to him, this is a good case in which the petitioner should be granted the facility of regular bail.

2. The learned counsel for the State submitted that no case for grant of bail is made out. He submitted straightway that this is the third bail application moved by the petitioner before this court. On the earlier two occasions this court had, categorically, on merits, rejected the bail applications by orders dated 15.02.2002 and 30.01.2004 He further submitted that since a commercial quantity is involved in this case, Section 37 of the NDPS Act would also be applicable.

3. The learned for the petitioner, however, argued that by the order dated 30.01.2004 this court had, while rejecting the bail application, given specific direction to the trial court to conclude the trial as expeditiously as possible

preferably within a period of six months from the next date of hearing. He says that now the period of six months has elapsed and the trial is not progressing because of the dilatory attitude on behalf of the prosecution and in particular the Narcotics Control Bureau. In his regard, he drew my attention to the order of the Special Judge/NDPS dated 07.03.2005 wherein it is specifically recorded as under:-

'The NCB has made a practice of not filing the reports of service of summons in the court, failing which the court can not take coercive steps to ensure the presence of witnesses. This causes unnecessary delay in trial. It is also noticed that the witnesses of NCB who are primarily employees of government do not report to the court before 11 am. There is no justification and Explanationn for their absence from duty till 11 am when their office hours commence at 9.30 am. This attitude of the witnesses of NCB is causing unnecessary delay in proceedings and wastage of court time. Copy of this order be sent to Zonal Director Ncb to ensure that the court proceedings are not taken lightly.'

4. The above quotation from the order of the Special Judge/NDPC dated 07.03.2005 displays his anguish over the attitude of the NCB in dragging its feet in the trial. What makes the situation worse is that this attitude of the NCB is despite a direction by this court to the trial court to conclude the trial expeditiously preferably within six months. This direction was given by this court on 30.01.2004 The learned counsel for the State, when he was confronted with these facts, submitted that he shall ensure and take appropriate steps to see that there shall be no delay in the trial on the part of the NCB. The learned counsel for the State has also undertaken that a proper inquiry will be conducted by a senior officer of the NCB to find out as to why such delays take place.

5. Considering all these facts, although on merits, I am not inclined to grant bail to the petitioner, particularly in view of the fact that this court had on two earlier occasions rejected the bail applications, I direct that the trial court shall conclude the trial as expeditiously as possible preferably within a period of six months from the next date of hearing. No adjournment will be taken by the parties and, particularly, the Narcotic Control Bureau. In case, for some reason or the other, the trial is not concluded within the aforesaid period, then the petitioner shall be at

liberty to approach this court. This application stands disposed of.

6. However, it be listed on 19.04.2005 to enable the learned counsel for the State to file a report as to what action has been taken in regard to the directions given above.

The application stands disposed of.

A copy of this order be sent to the trial court.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com