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A.B. Somiari Vs. State

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Court : Delhi

Decided On : May-28-1993

Reported in : 51(1993)DLT180; 1993(26)DRJ583

Judge : Sat Pal, J.

Acts : Code of Criminal Procedure (CrPC) , 1973 - Sections 407

Appeal No. : Criminal Miscellaneous (Main) Appeal Nos. 3381 of 1992 and 1172 of 1993

Appellant : A.B. Somiari

Respondent : State

Advocate for Pet/Ap. : K.K. Sud,; Rakesh Sherawat and; Seema Gulati, Advs

Judgement :

Sat Pal, J.

(1) This order will dispose of both the petitions.

(2) The petitioner who is a foreign national is in judicial custody since 20th November, 1988 in the case Fir No. 583/88 under Section 21 .of the Narcotic Drugs & Psychotropic Substances Act, P.S.Paharganj, for the alleged recovery of 500 grams of heroin. The petitioner had applied for grant of bail vide

Crl.M(M)2414/91 which was dismissed as not pressed, vide order dated 22nd May, 1992 passed by a learned Single Judge of this Court. The learned Single Judge, however., directed the -learned trial Judge to dispose of the case within four months.

(3) CRL.M(M) 3381/92, has been filed by the petitioner through Jail for grant of bail on the ground that inspire of the directions given by this Court; the case has not been. disposed of till late.

(4) Daring the pendency of the above petition another petition Crl.M(M) 1172/93 has been filed by the petitioner through his counsel for grant of bail or in the alternative to transfer the case to Patiala House Courts or Shahdara Courts or to this Court as contemplated under Section 407 of the Code of Criminal Procedure.

(5) Mr. Sud, learned counsel appearing on behalf of the petitioner drew my attention to the various proceedings from 14th July, 1992 on wards and submitted that the case had to be adjourned on a number of occasions as learned Additional Public Prosecutor or the Public Prosecutor was on leave or was not available on some other grounds. He also submitted that now the case is at final arguments stage. Learned counsel, thereforee, submitted that the petitioner should be released on bail as he has been in jail since 20th November, 1988 or in the alternative the case should be transferred to some other Court.

(6) Ms. Seema Gulati, learned counsel appearing on behalf of the State submitted that since the case is now fixed for final arguments, even written submissions can be made by the learned counsel for the parties. Learned counsel for the petitioner, however, submitted that in the present case oral submissions are necessary.

(7) I have given my thoughtful consideration to the submissions made by the learned counsel for the parties. From the records I find that the direction given by a learned Judge of this Court on 21st May, 1992 that the case should be disposed of within four months has not been complied-with and the case had to be adjourned on many occasions as the learned A.P.P. was on leave or was not available. Since the petitioner is a foreign national and the case is now already fixed for final arguments, I am not inclined to grant bail to the petitioner. However, considering

the special facts and circumstances of the case, I direct that the case be withdrawn from the Court of Shri J.P. Sharma Addl. Sessions Judge, Tis Hazari, Dehi and transferred to the Court of Shri J.M. Malik, Addl. Sessions Judge, Shahdara Courts who will dispose of the case expeditiously, preferably within one month.

(8) With this order both the petitions stand disposed of.

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