

Dhammo Vs. State

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Court : Delhi

Decided On : Sep-11-1998

Reported in : 1998(47)DRJ213

Judge : J.B. Goel, J.

Acts : Narcotic Drugs & [Psychotropic Substances Act, 1985](#) - Sections 37

Appeal No. : Crl. M.(M) No. 1445/98

Appellant : Dhammo

Respondent : State

Advocate for Def. : M.S. Butalia, Adv.

Advocate for Pet/Ap. : B.L. Gupta, Adv

Judgement :

J.B. Goel, J.

1. The petitioner is facing trial for an offence under Section 21 of the Narcotic Drugs and [Psychotropic Substances Act, 1985](#), (for short the Act). The prosecution case in brief is that Insp. B.S. Ahelawat of Operation Cell (South West Distt), New Delhi had received secret information on 19.12.1996 at about 7.00 a.m. that the accused-applicant was selling Smack in front of her house. On the basis of this information, a raiding party was arranged. Lady Const. Urmila Devi and one public witness Prem Singh besides other police officials were joined. Option was given under Section 50 of the Act. ACP of the same Cell was called and in the search made in his presence; 51 pudias containing 40 gms. of Smack was recovered from the possession of the accused.

2. Learned counsel for the petitioner has contended that the provisions of Sections 50, 52 and 57 of the Act have not been complied with, he also contends that CFSL form was not prepared and sent to the CFSL as deposed by Moharrar Malkhana (PW1); that the presence of the ACP is doubtful as he has not signed the seizure memo or any other document; also that the public witness has not supported the prosecution case and his testimony completely demolishes the case. He has also cited some case law.

3. Whereas learned counsel for the State has contended that these questions could be gone into at final stage and at this stage, prima facie, no case is made out.

4. I have considered the circumstances of the case, the contentions and the material placed on record. To avoid any prejudice to the parties, it will not be proper to go in detailed discussion. However, it is seen that the public witness has not supported the prosecution case which may create doubts in the case.

5. In the facts and circumstances, in my view it is a fit case to admit the petitioner on bail. She is admitted to bail upon her executing a personal bond in the sum of Rs.7,000/- with one surety in the like amount to the

satisfaction of the trial court. This is subject to the condition that she will appear during trial and no adjournment shall be taken on her behalf without valid ground.

6. Trial court record be sent back forthwith.

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