

Zoro Daniel Vs. State

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Court : Delhi

Decided On : Feb-22-2012

Judge : Suresh Kait

Appeal No. : L.M.C. 443 of 2012

Appellant : Zoro Daniel

Respondent : State

Judgement :

SURESH KAIT, J.

(Oral)

1. Vide the instant petition, the petitioner has sought to modify the impugned order dated 27.1.2012 passed by the learned Special Judge, NDPS, Patiala House Courts, New Delhi in a case FIR no. 29/2011 under Sections 21 and 29 of the NDPS Act and Section 14 of the Foreigners Act, PS Special Cell, New Delhi and allow the petitioner to deposit cash amount in lieu of the surety.

2. Vide order dated 19.11.2011, learned Trial Judge, keeping in view the amount of contraband recovered from the petitioner, and the period already undergone by him in custody and also taking into consideration the report filed by I.O. that the petitioner has no previous antecedents, admitted the petitioner to interim bail

for a period of one month on furnishing personal bond in the sum of Rs.50,000/- with one surety of the like amount.

3. The trial court admitted the petitioner on interim bail on the ground that the petitioner was found to be in possession of a genuine passport with a valid visa which has already expired in June, 2011. The Id. trial court further directed him to apply for the extension of his visa, and thereafter, deposit both his passport and visa in the Court. The trial court has recorded that there is no possibility of this petitioner fleeing from justice.

4. I note that the learned Trial Judge vide the aforesaid order dated 19.11.2011 has also recorded that once the petitioner complies with the said condition, his bail will be regularized.

5. Ld. counsel for the petitioner submits that the petitioner tried his level best to arrange for his surety, however, at last he moved an application praying that he may be allowed to deposit Rs.50,000/- in cash in lieu of the surety bond. It is stated in the application that the petitioner has not been able to arrange a surety as he is a foreign national of Abijan, Ivory Coast, West Africa.

6. Learned Trial Judge has also recorded that at the time of advancing arguments on the bail application, it was specifically submitted on behalf of the petitioner that his wife is an Indian national and that he has roots in India.

7. Learned counsel for the petitioner has submitted that no doubt the wife of the petitioner is an Indian and as per his information she has gone to Canada. The trial court while dismissing the application, has recorded that the petitioner is only trying to abuse the process of court by firstly submitting that he has roots in India and that his wife is an Indian and then, after obtaining bail order, stating that he is a foreign national and is unable to find any surety in India.

8. The liability/responsibility of the surety is to produce the accused as and when required by the Court. If he fails then he has to deposit the surety amount. If the Court feels the surety has played any dubious role in helping the accused flee then the Court may proceed against the surety and forfeit the amount of surety.

In the instant case, the petitioner is a foreign national. Though, he is married with an Indian woman, due to his incarceration, his wife has left for Canada and he has no other relatives in Delhi, he is ready to deposit the surety amount of Rs.50,000/-.

9. As per Section 445 Cr.P.C. i.e. (Deposits instead of recognizance) that if the Accused person is unable to execute a bond with or without surety, then the court may permit the Accused/convict to deposit a sum of money or Govt. promissory notes to such amount.

10. In the circumstances, I find no ground to deny the relief sought in the instant petition. Accordingly, the order dated 19.11.2011 is modified to the extent that the petitioner shall be released on deposit of cash amount of Rs.50,000/- before the trial court. Consequently, order dated 27.01.2012 is set aside.

11. A copy of the order of this Court be sent to the Jail Authorities for information.

12. I, here, make it clear that rest of the conditions imposed vide order dated 19.11.2011 shall remain the same.

13. CRL.M.C. 443/2012, stands allowed.

14. Dasti.