

SUPREME COURT OF INDIA**REPORTABLE****Bench: Justices B.V. Nagarathna and Ujjal Bhuyan****Date of Decision: 24th June 2024**

Case No.:

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. ____ OF 2024

(@ Special Leave Petition (Crl.) No. 2057/2024)

APPELLANT(S):**MARK FLOYD D’COSTA****.....Appellant****VERSUS****RESPONDENT(S):****INTELLIGENCE OFFICER, NARCOTICS CONTROL BUREAU****.....Respondent****Legislation:**

Sections 8(C), 22(B), 22(C), 24(C), 27, 27A, 28, and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act)

Subject: The appeal concerns the rejection of the appellant's bail application in a case involving serious offences under the NDPS Act, including possession and trafficking of narcotic drugs and psychotropic substances.**Headnotes:**

Criminal Law – Bail – NDPS Act Offences – Rejection of Bail Application – Appeal against the High Court's rejection of bail for the appellant, who has been in custody for over three years – Supreme Court granted bail considering the protracted trial, the appellant's lack of prior criminal antecedents, and the unlikely chance of reoffending [Paras 1-11].

Custody Duration and Trial Delays – Significant delay in trial commencement, charges framed after three years of custody – Supreme Court acknowledged the undue delay and absence of trial progress as a ground for granting bail – Emphasized need for expeditious trial proceedings in line with constitutional rights [Paras 6-8].

Conditions for Bail – Ensuring Trial Participation – Bail granted with conditions to ensure the appellant's presence during trial – Supreme Court directed the appellant to cooperate fully with trial proceedings and cautioned against misuse of liberty [Paras 12-14].

Decision – Appeal Allowed – The appellant granted bail and directed to be produced before the trial court – The trial court to impose appropriate conditions to ensure compliance with the bail order [Para 15].

Referred Cases:**No specific cases cited in this judgment.****Representing Advocates:**

For the Appellant(s):

Mr. S. Hariharan, Adv.

Ms. Jaikriti S. Jadeja, AOR

Mr. Aaman Shreyas, Adv.

Ms. Mannat Tipnis, Adv.

Mr. Shivang Goel, Adv.

For the Respondent(s):

Ms. Aishwarya Bhati, A.S.G. (Not Present)

Mr. Rajat Nair, Adv.

Mr. Akshit Pradhan, Adv.

Ms. Chitrangda Rastvara, Adv.

Mr. Tanmay Mehta, Adv.

Mr. Amit Sharma B, Adv.

Mr. Dheeraj Jani, Adv.

Mr. Arvind Kumar

Sharma, AOR

ORDER

Leave granted.

This appeal challenges the judgment and order dated 08.11.2023 passed by the High Court of Judicature at Bombay in Crl. Bail Application. No.560 of 2022.

The appellant herein has been booked for the crime registered in F.No.NCB/MZU/CR-26/2021(Case No. 667 of 2021) lodged with Narcotics Control Bureau, Mumbai, with respect to offences punishable under Section 8(C) read with Sections 22(B), 22(C), 24(C), 27, 27A, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act").

An application seeking regular bail having been rejected by the High Court vide impugned order dated 08.11.2023. Hence, the appellant has preferred the instant appeal. Contd..

This Court vide its order dated 15.02.2024, issued notice in the instant matter.

Heard learned counsel for the appellant in support of the appeal and learned counsel for the respondent and perused the material on record.

Learned counsel for the appellant submitted that the appellant was arrested on 27.03.2021 and that he has been languishing in jail for the last three and a half years; that the appellant has a good case on merits. The charges have been framed as late as on 19.03.2024 and subsequently there has been no progress in the matter. There are as many as sixteen witnesses to be examined and the trial would be protracted. Learned counsel for the appellant also submitted that the appellant has no other criminal antecedents and unfortunately he was apprehended as a first time offender in the instant case. Therefore, this Court may consider his plea for grant of bail.

Per contra, learned counsel for the respondent/Narcotics Control Bureau with reference to his counter affidavit opposed grant of any relief to the appellant herein by contending that the appellant would in all probability repeat the offence, once he is granted liberty. Further, there are only 16 witnesses to be examined and therefore, a direction may be issued to the trial court to expedite the trial. Learned counsel for the respondent also submitted that the offence is punishable with contd. rigorous imprisonment upto 20 years and the appellant is in jail only for three and a half years. In the circumstances, the appeal may be dismissed.

We have considered the contentions advanced at the Bar and we are of the view that the appellant has made out a case for grant of bail. We, therefore, allow this appeal and direct as under:

“The appellant shall be produced before the concerned trial Court as early as possible and the trial Court shall release him on bail, subject to such conditions as it may deem appropriate to impose to ensure his presence

in the proceedings arising out of F.No.NCB/MZU/CR-26/2021(Case No. 667 of 2021) mentioned above.”

It is directed that the appellant shall extend complete cooperation in the trial of the instant case. The appellant shall not misuse his liberty in any manner.

Any infraction of the conditions shall entail cancellation of bail granted to the appellant. With these observations, the appeal is allowed.

© All Rights Reserved @ LAWYER E NEWS

*Disclaimer: Always compare with the original copy of judgment from the official website.