

Law Today Live Doc. Id. 15350

SUPREME COURT OF INDIA

Before: Sanjay Kishan Kaul, Aniruddha Bose & Krishna Murari, JJ.

Criminal Appeal Nos.585-586 of 2020

Decided on: 11.09.2020

(Arising out of SLP(Criminal)Nos.2249-2250 of 2020)

Sheru

Appellant

Versus

Narcotics Control Bureau

Respondent

For Petitioner(s):

Mr. N.K.Mody, Sr.Adv., Mr. M. P. Shorawala, AOR

For Respondent(s):

Mr. S.V.Raju,ASG, Mr. B.V.Balaram Das, AOR, Mr. Manan Poori,Adv., Mr. Rajiv Ranjan,Adv.

Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), Section 37 -- Code of Criminal Procedure, 1973 (2 of 1974), Section 389 -- NDPS matter -- Large period of custody during pendency of appeal -- Suspension of sentence -- Rigors of Section 37 would have to be met before the sentence of a convict is suspended and bail granted and mere passage of time cannot be a reason for the same.

(Para 4, 5)

Cases referred:

1. Union of India v. Rattan Mallik @ Habul - (2009) 2 SCC 624.

ORDER

1. Leave granted.

2. We have heard learned counsel for the parties.

3. The submission of the learned senior counsel for the appellant, inter alia, is that he has been in custody for almost eight years and despite the directions of this Court to treat the case at priority, at present the case is not reached for hearing.

4. On the other hand, the learned Additional Solicitor General for the respondent contends that the normal principle of a large period having already been served during the pendency of the appeal cannot be a ground to suspend the sentence and grant bail, in view of the stringent provisions of Section 37 of the NDPS Act. In this behalf, he has invited our attention to judgment of this Court in the case of **Union of India v. Rattan Mallik @ Habul - (2009) 2 SCC 624**.

5. We have given a thought to the matter and there is no doubt that the rigors of Section 37 would have to be met before the sentence of a convict is suspended and bail granted and mere passage of time cannot be a reason for the same. However, we are faced with unusual times where the Covid situation permeates. We are also conscious that this Court has passed orders for

release of persons on bail to de-congest the jail but that but that is applicable to cases of upto seven years sentence.

6. In the given aforesaid facts and circumstances of the case, we consider it appropriate to enlarge the appellant on bail on terms and conditions to the satisfaction of the Trial Court.

7. At the insistence of the learned Additional Solicitor General, we clarify that the order has been passed in the given facts of the case and not to be treated as a precedent.

8. The appeals stand disposed of.

Order accordingly.

