

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).3475/2010

(From the judgement and order dated 07/10/2009 in MCRC No.  
6036/2009 of The HIGH COURT OF M.P AT INDORE)

THANA SINGH

Petitioner(s)

VERSUS

CENTRAL BUREAU OF NARCOTICS

Respondent(s)

(With appln(s) for exemption from filing O.T.,bail and office  
report)

Date: 30/08/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN

HON'BLE MR. JUSTICE H.L. DATTU

For Petitioner(s) Mr. Sunil Verma, Adv.  
Mr. Sanjay Sharawat, Adv.

For Respondent(s) Mr. Mohan Parasaran, ASG  
Mr. S.L. Gupta, Adv.  
Ms. Sadhna Sandhu, Adv.  
Mr. Shreekant N. Terdal, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed; the impugned order is set  
aside and it is directed that the appellant shall be  
granted bail till the conclusion of the trial, subject to  
the following conditions :

(i) The appellant shall furnish personal bond in the sum  
of Rs. 20,000/- with one surety in the like amount to the  
satisfaction of the trial Court;

(ii) the appellant shall report to the trial Court on every  
1st and 14th of the Calendar month at 10.00 a.m.;

..2/-

: 2 :

(iii) the appellant shall not leave the jurisdictional  
area of the trial court without the permission of the  
Court.

(iv) If any of these conditions are violated, or a case  
for cancellation of bail is made out, the trial court will  
be at liberty to cancel the bail.

It is directed that the trial Court shall expedite  
the trial and try to conclude it within one year from the  
date of receipt of a copy of this order.

Issue notice to all the States through their Chief  
Secretaries to furnish information of all the cases where  
the undertrials in cases under the NDPS Act have been in

incarceration for a period of five years or more. The office shall take appropriate steps to send a copy of this order to all the States for compliance. Requisite affidavits shall be filed within eight weeks.

List immediately after eight weeks for further directions.

[ Charanjeet Kaur ]  
Court Master

[ Kusum Gulati ]  
Court Master

[ Signed order is placed on the file ]  
IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1640 OF 2010  
( Arising out of SLP(Crl.) No. 3475/2010)

Thana Singh .. Appellant(s)

Versus

Central Bureau of Narcotics .. Respondent(s)

O R D E R

Leave granted.

This is yet another unfortunate case where an accused, facing trial for an offence under Section 8 read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1988 (for short, "the NDPS Act"), is languishing in jail for a period of over twelve years and yet the conclusion of the trial is not in sight. Admittedly, the appellant has been in judicial custody since 13th April, 1998.

Aggrieved by the order passed by the High Court of Madhya Pradesh in Misc. Criminal Case No. 6036 of 2009 whereby appellant's application for grant of bail has been dismissed, he has knocked at the door of this Court for appropriate relief.

Vide order dated 16th August, 2010, we had directed the Assistant Commissioner (Narcotics) Neemuch to file an affidavit explaining the cause for undue delay in trial.

..2/-

: 2 :

Simultaneously, we had also requested the Special Judge, NDPS, Mandsaur (M.P.) to send a report regarding the

present status of the trial.

In response thereto, the Deputy Narcotics Commissioner, Neemuch (M.P.) has filed an affidavit wherein it is stated that there is no delay on the part of the said Bureau and "it appears from the record that the delay has been occasioned either due to appellant or other co-accused persons." As regards the present stage of trial, it is pointed out that 16 witnesses have already been examined by the prosecution and there is every possibility of the trial being concluded within a short period.

We have heard learned counsel for the appellant as also the learned Additional Solicitor General for the Narcotics Bureau.

Time and again, this Court has emphasized the need for speedy trial, particularly when the release of an undertrial on bail is restricted under the provisions of the statute, like in the present case under Section 37 of the NDPS Act. While considering the question of grant of bail to an accused facing trial under the NDPS Act in Supreme Court Legal Aid Committee representing undertrial

..3/-

: 3 :

Prisoners vs. Union of India and Ors., 1994 (6) SCC 731, this Court had observed that though some amount of deprivation of personal liberty cannot be avoided in such cases, but if the period of deprivation, pending trial, becomes unduly long, the fairness assured by Article 21 of the Constitution would receive a jolt. It was further observed that after the accused person has suffered imprisonment, which is half of the maximum punishment provided for the offence, any further deprivation of personal liberty would be violative of the fundamental right visualized by Article 21. We regret to note that

despite it all, there has not been visible improvement on this front.

Bearing in mind these observations and having regard to the fact that in the present case the appellant has been in custody for more than 12 years and seemingly there being no prospect of the conclusion of trial in the near future, we are of the opinion that it is a fit case where he deserves to be admitted to bail forthwith.

Accordingly, the appeal is allowed; the impugned order is set aside and it is directed that the appellant shall be granted bail till the conclusion of the trial, subject to the following conditions :

..4/-

: 4 :

(i) The appellant shall furnish personal bond in the sum of Rs. 20,000/- with one surety in the like amount to the satisfaction of the trial Court;

(ii) the appellant shall report to the trial Court on every 1st and 14th of the Calendar month at 10.00 a.m.;

(iii) the appellant shall not leave the jurisdictional area of the trial court without the permission of the Court.

(iv) If any of these conditions are violated, or a case for cancellation of bail is made out, the trial court will be at liberty to cancel the bail.

We would also direct the trial Court to expedite the trial and try to conclude it within one year from the date of receipt of a copy of this order.

Before parting with the case, we also deem it necessary to issue notice to all the States through their Chief Secretaries to furnish information of all the cases where the undertrials in cases under the NDPS Act have been in incarceration for a period of five years or more. The office shall take appropriate steps to send a copy of this order to all the States for compliance. Requisite affidavits shall be filed within eight weeks.

List immediately after eight weeks for further directions.

.....J.  
[ D.K. JAIN ]

.....J.  
[ H.L. DATTU ]

NEW DELHI,  
AUGUST 30,2010.