

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

CRIMINAL APPEAL NO(s). 1077 OF 2007

RAMESH KUMAR SAMRA Appellant (s)
VERSUS

DIRECTORATE OF REVENUE INTELLIGENCE Respondent(s)

(With office report)

Date: 10/12/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY
HON'BLE MR. JUSTICE DEEPAK VERMA

For Appellant(s)

Mr. Gaurave Bhargava, Adv.
For Mr. Rishi Malhotra, Adv.

For Respondent(s)

Mr. P.P. Malhotra, ASG
Ms. Ranjana Narayan, Adv.
Mr. B.V. Balaram Das, Adv.

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

Leaving the question of law open, this appeal is allowed and the impugned order passed by the High Court is set aside in terms of the signed order.

(Sukhbir Paul Kaur)
Court Master

(Vijay Dhawan)
Court Master

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1077 OF 2007

RAMESH KUMAR SAMRA APPELLANT(S)

Versus

DIRECTORATE OF REVENUE INTELLIGENCE RESPONDENT(S)

O R D E R

This appeal by special leave is directed against the order dated 31st January, 2007 passed by the High Court of Andhra Pradesh at Hyderabad in Criminal Petition No. 5880 of 2006 whereby and

whereunder the High Court cancelled the bail granted to the appellant by the Special Judge, N.D.P.S., Hyderabad vide order dated 19th December, 2006.

The Metropolitan Sessions Judge while granting the bail noted that the investigation was almost complete and therefore, directed the appellant to be released on bail on executing a bond for a sum of Rs.30,000/- with two sureties for like sum each to the satisfaction of this Court, subject to the condition that he shall appear before the Directorate of Revenue Intelligence, Hyderabad on the specified dates and timings. The said order was challenged by the Intelligence Officer on the ground that the order

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granting bail was contrary to the mandatory requirement of Section 37 of the Narcotic Drugs And Psychotropic Substances Act, 1985 (in short 'the NDPS Act'). The High Court upon appreciation of the material on record cancelled the bail on the ground that there is a prima facie material against the appellant and his brother involved in receiving the commercial quantity of the drug; transporting the drug in the form of tablets and capsules to the people; that the conditions prescribed under Section 37 of the NDPS Act were not complied by the Session Judge while granting bail.

Learned counsel appearing for the appellant submitted that after release of the appellant on bail by the Metropolitan Sessions Judge, the appellant has been complying with the conditions subject to which he was directed to be released on bail. The submission was that at this stage after a period of three years of grant of bail it may not be appropriate to send the appellant back to jail. Learned Additional Solicitor

General appearing for the respondent, relying upon the judgment of this Court reported in 2007 (1) SCC 355 titled State of Uttaranchal versus Rajesh Kumar Gupta

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submitted that the High Court did not commit any error whatsoever in cancelling the bail of the appellant and the impugned order is not required to be interfered with in exercise of the jurisdiction under Article 136

of the Constitution of India. We have considered the submissions.

The fact remains that the appellant herein was released by the Metropolitan Sessions Judge vide Order dated 19.12.2006 and he continues to be on bail as of today. There is no allegation of the appellant indulging in any tempering and destroying the evidence. There is also no allegation that after release on bail the appellant indulged in any offence punishable under the NDPS Act. Therefore, it cannot be said that the appellant is likely to commit any offence while on bail

Leaving the question of law open, we allow this appeal and set aside the impugned order passed by the High Court. The appellant shall continue to be on bail subject to the same terms and conditions on which the appellant was directed to be released on bail by the Metropolitan Sessions Judge. It is, however, made clear that in case of violation of any of the terms and conditions formulated while granting bail, it

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shall always be open to the Directorate of Revenue Intelligence to file proper application for cancellation of bail.

.....J.
(B. SUDERSHAN REDDY)

.....J.
(DEEPAK VERMA)

New Delhi,
DECEMBER 10, 2009