

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. 2433-2434/2000
(From the judgement and order dated 07/07/1999 & 7.12.1999 in MCRLCA
2274/99 & 4588/99 of The HIGH COURT OF M.P AT INDORE)

CENTRAL BUREAU OF NARCOTICS

Petitioner (s)

VERSUS

AFZAL KHAN & ANR.

Respondent (s)

(With Appln(s). for c/delay in filing SLP
and issuance of non-bailable war. of arrest)
(With Office Report)

Date : 01/12/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS
HON'BLE MR. JUSTICE R.P. SETHI

For Petitioner (s) Mr. Altaf Ahmad, ASG,
Ms. Binu Tamta, Adv.
Ms. Sushma Suri, Adv.

For Respondent No.1 Mr. K.T.S. Tulsi, Sr. Adv.
Mr. Rishi Malhotra, Adv.
Mr. Prem Malhotra, Adv.

Respondent No.2 Mr. Niraj Sharma, Adv.

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

.....L.....I.....J.....
.SP2

Delay condoned.
Leave granted.
The appeals are disposed of in terms of the
signed order.

.SP1

(H.K. Bhatia)
Court Master

(Manju Sharma)
AR-cum-PS

Signed order is placed on the file.

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CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS 1038-1039 OF 2000@@
CC
(Arising out of SLP (Crl.) Nos.2433-2434 of 2000)

C.B. of Narcotics,
Neemuch (M.P.) ..Appellant

Versus

Shri Afzal Khan & Anr. ..Respondents

O R D E R@@
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.SP2

Delay condoned.
Leave granted.

The respondents were charge-sheeted under Section 8 read with Section 18 of Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as 'the Act') on the allegation that they were in possession of 44.300kg. of contraband opium. When they moved for bail the learned Single Judge of the Madhya Pradesh High Court released them on bail for which he had recorded only the following observations:

.....L...I.....J.....

.SP1

"In the facts and circumstances of the case, the application is allowed and the application Afzal Khan s/o Sardar Khan is directed to be released on bail on his furnishing bail bond in the sum of Rs. 50,000/- (Rupees Fifty thousand) with two sureties in the sum of Rs. 25,000/- each to the satisfaction of the trial Court. He will mark his presence before the Police Station Shehar Kothwali, Mandsaur on every Sunday between 10 A.M. and 12 morning."

..2/-

.SP2

.....L.....I.....J.....

The power of the Court including the High Court to grant bail before conviction or after conviction of an offence under the Act is governed by Section 37 of the Act. This Court has stated in Union of India vs. Ram Samujh [(1999) 9 SCC 429@@
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about the parametres to be observed while granting bail in exercise of the power under Section 37 of the Act. A reading of the impugned order shows that the learned Judge has not borne in mind any of those parametres.

Mr. K.T.S. Tulsi, learned senior counsel contended that respondents have got adequate reasons for being released on bail. It is open to the respondents to address the High Court with reference to those reasons, if there is any. Without prejudice to their rights to urge those reasons before the High Court we set aside the impugned order.

We direct the respondents to surrender to the bail within two weeks. If any fresh application is filed by the respondents for bail the High Court shall dispose of the same within four weeks. The appeals are disposed of accordingly.

.SP1

.....J.
(K.T. THOMAS)

New Delhi,
December 1, 2000

.....J.
(R.P. SETHI)