

(2001) 09 SC CK 0127

In the Supreme Court Of India

Case No : Special Leave Petition (Criminal Case No: 3400, 3451 of 2001

Achint Navinbhai Patel alias Mahesh Shah

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 24-09-2001

Acts Referred:

Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 22, 23, 24, 29

Indian Penal Code, 1860 — Section 120A, 120B

Citation : (2002) 1 ACR 417 : AIR 2003 SC 2172 : (2002) 142 ELT 516 : (2001) 10 JT 545 : (2002) 10 SCC 529

Hon'ble Judges : R. P. Sethi, J;M. B. Shah, J

Bench : Division Bench

Final Decision : Disposed Off

Judgement

1. Unfortunately, for one or the other reason the prosecution for the offences punishable under Sections 22 23 24 and 29 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as "the NDPS Act") and Sections 120A and 120B of the Indian Penal Code is not over for eight years. Allegations against both the petitioners are with regard to illegal manufacture and exports of 2000 kgs. and 162 kgs. of Mandrex tablets respectively. Reasons are -- delay in completing investigation; delaying prosecution by repeated applications on interim matters including bail applications; hearing such applications at length and deciding the same by elaborate judgments and staying further prosecution by the High Court. This case aptly justifies the following observations made by Justice Krishna Iyer In Re: The Special Courts Bill, 1978, :-

"It is common knowledge that currently in our country criminal Courts excel in slow motion. The procedure is dilatory, the dockets are heavy, even the service of process is delayed and, still more exasperating, there are appeals upon appeals and revisions and supervisory jurisdictions, baffling and baulking speedy termination of prosecutions, not to speak of the contributions to delay by the administration itself by neglect of the basic necessities of the judicial process."

2. Similar are the observations made by Mukherjee J. in Ganesh Narayan Hegde Vs. S. Bangarappa and Others, which are as under : -

"The slow motion becomes much slower motion when politically powerful or rich and influential persons figure as accused. FIRs are quashed. Charges are quashed. Interlocutory orders are interfered with. At every step, there will be revisions and applications for quashing and writ petitions. In short, no progress is ever allowed to be made. And if ever the case reaches the stage of trial after all these interruptions, the time would have taken its own toll: the witnesses are won over; evidence disappears; the prosecution loses interest - the result is an all too familiar one. We are sad to say that repeated admonitions of this Court have not deterred superior Courts from interfering at initial or interlocutory stages of criminal cases. Such interference should be only in exceptional cases where the interests of justice demand it; it cannot be a matter of course."

3. It has been pointed out that Bipin Shantilal Panchal, petitioner in SLP (Crl.) No, 3451 of 2001 has filed 5th bail application before the High Court as well as before this Court. Other accused also filed two bail applications before the High Court and this Court. Considering the lengthy orders passed by the High Court, it appears that all sorts of dilatory tactics are adopted and that neither the High Court is taking up appropriate action nor the Sessions Court in complying with the directions issued by this Court repeatedly for expeditious trial. It appears that much of the time is wasted in disposing of bail matters and interim applications by hearing arguments at length as if there is no constraint of time and staying further proceedings at interlocutory stages. This Court while disposing of SLP (Crl.) No. 223 of 2000 filed by the petitioner Bipin Shantilal Panchal, on 31-3-2000 observed as under :-

"As the Special Judge who is trying the case has reported to us that he reasonably expects to close the trial within six months we dispose of this SLP permitting the petitioner to move for bail again in case the trial is not closed within six months."

4. For modification of the aforesaid order and for extension of time. Criminal Misc. Petition No. 862 of 2001 was filed, which was disposed of by this Court on 22nd February, 2001 by making various observations including the following one :-

"This is yet another opportunity to inform the trial Courts that despite the procedural trammels and vocational constraints we have reached a stage when no effort shall be spared to speed up trials in the criminal Courts. It causes anguish to us that in spite of the exhortations made by this Court and a few High Courts, time and again, some of the trial Courts exhibit stark in-sensitivity to the need for swift action, even in cases where the accused are languishing in prisons for long years as under-trials only on account of the slackness, if not inertia, in accelerating the process during trial stage."

5. Apart from the directions in this very case, it has been repeatedly stressed

that NDPS cases should be tried as early as possible because in such cases normally accused are not released on bail.

6. However, despite the delay, in our view, this would not be a fit case for granting bail to the accused. Trial Court shall comply with the directions issued by this Court for expeditious disposal of the matter. If there is non-compliance, the High Court is directed to take appropriate action. The High Court is also requested not to interfere and grant stay order with regard to further proceedings at the interim stage and if any such revision/application is pending, the High Court to decide the matter at the earliest.

7. With these observations, the special leave petitions are disposed of.