Chain Singh Dhool Singh Vs State of Madhya Pradesh

Court: Madhya Pradesh High Court (Gwalior Bench)

Date of Decision: Jan. 28, 1991

Acts Referred: Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) â€" Section 37

Citation: (1992) 37 MPLJ 811 : (1992) MPLJ 811

Hon'ble Judges: K.K. Verma, J

Bench: Single Bench

Advocate: P.N. Mishra, for the Appellant; C.S. Dixit, Dy. Govt. Advocate, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

K.K. Verma, J.

Applicant by Shri P.N. Mishra, Advocate.

State by Shri C. S. Dixit, Dy. Government Advocate.

They are heard.

The applicant was arrested on or about 3-4-1988. It is alleged that he was having illegal possession of 1 Kilogram of Methaqualone. The offence

is punishable with an imprisonment which shall not be less than 10 years and a fine which shall not be less than one lakh rupees.

On 9-1-1991, the learned Judge applied the closure to the right of the prosecution to adduce the evidence of the absent witnesses. The case stood

adjourned to 17-1-1991 for examination of the accused but in the meanwhile the record was requisitioned for production before this Court. The

attention of Shri Mishra was drawn to Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The relevant portion appears at

clause (b) of sub-section (1) of Section 37. The relevant portion reads as follows:

37. Offences to be cognisable and non-bailable. - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974).

(b) no person accused of an offence punishable for a term of imprisonment of five years or more under this Act shall be released on bail or on his

own bond unless -

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) Where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty

of such offence and that he is not likely to commit any offence while on bail.

The evidence of Constable Madan Mohan (PW1), Rajendra Kumar (PW2), a Security Guard at the M.P.S.R.T.C. Depot and that of another

Constable named Narendra Singh Sisodia Manan (PW4), the arrest memo (Ex.P-1) etc. read together, do not lead to the Court"s, satisfaction

that the applicant is not guilty of the offence in question. In view of this, the provisions of clause (b) of sub-section (1) of Section 37 of the Act are

not satisfied in the case besides the case is at the closing stage. Also the nature of the offence is such that a man on being enlarged on bail might

very well be tempted to jump bail.

In view of all these circumstances, the bail application is rejected.