

# Narcotics Control Bureau vs Laxman Prasad Soni Etc. Etc. on 19 April, 2021

**Bench: Uday Umesh Lalit, K.M. Joseph**

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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 438-440 OF 2021  
(@ out of SLP (CrI.) Nos.3361-3363/2021)  
(@ out of SLP (CrI.)Dy. No. 24219/2020)

NARCOTICS CONTROL BUREAU

APPELLANT (S)

VERSUS

LAXMAN PRASAD SONI ETC. ETC.

RESPONDENT(S)

WITH

CRIMINAL APPEAL NO.441 OF 2021  
(@ out of SLP (CrI.) No.3364 /2021)  
(@ out of SLP (CrI.)Dy No. 24198/2020)

ORDER

Delay condoned.

Leave granted.

These appeals challenge i) the order dated 23.09.2019 passed in Criminal Miscellaneous Bail Application Nos.38036/2019, 38066/2019 & 38048/2019 and ii) the order dated 13.09.2019 passed in Criminal Miscellaneous Bail Application No.33843 of 2019; by the High Court<sup>1</sup>.

The respondents herein were arrested on 17.03.2019 on the allegation that they were found in possession of 229kg of ganja and had thereby committed offences punishable under Sections

8,20,27A, 29 and 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (“the Act” for short).

The appropriate complaint having been filed by the concerned Investigating Officer, the matter is presently pending in the Court of Additional Session Judge, Varanasi for consideration whether charges need be framed in the matter or not.

While entertaining the applications for bail preferred by the respondents, the High Court directed their release subject to certain conditions imposed by the High Court. While granting relief, the High Court made following observations in its judgement and order dated 23.09.2019:-

“Learned counsel for opposite party opposed the prayer for bail but did not dispute the factual submissions made by the learned counsel for the applicants and submitted that applicants have been arrested with the possession of 25 kg ganja for which they had no valid license.

Considering the facts and circumstances of the case, rival contention of learned counsel for the parties, detention of applicant in jail, severity of punishment in case of conviction, alleged recovery from the possession of the accused-applicant and without commenting upon the merit of the case, applicant deserve bail.” The High Court of Judicature at Allahabad Taking exception to these orders granting bail, Mr. S.V. Raju, learned Addl. Solicitor General submits inter alia:

(a) Apart from the vehicle in which 25 kg. of ganja was found in possession of the respondents, there was another vehicle, namely, truck in which rest of the contraband material was found.

(b) Both the vehicles were going together and the entirety of the recovered material has to be attributed to the respondents.

(c) In any event of the matter even “25 kg. Ganja” would be commercial quantity within the meaning of the provisions of the Act.

(d) The orders granting bail did not consider the provisions of Section 37 of the Act.

Countering the submissions made on behalf of the appellant, Mr. Gaurav Agarwal, learned Advocate submits:-

(a) The bail was granted in September, 2019 and no condition of bail has in any way been violated by any of the respondents.

(b) That there has been delay of more than 300 days in preferring the special leave petitions and that there is no reason for condonation of delay.

(c) Since four persons were found traveling in the vehicle, the recovered material of 25kg. ganja taken insofar as each of those persons is concerned, will be well below the commercial quantity.

We understand that the matter is to come up before the Trial Court on 27.05.2021 for framing of charges, if any. We, therefore, direct the Trial Court to take up the matter on the said date.

As the matter is yet to be considered by the concerned Court for framing of charges, we do not deem it appropriate to enter into the merits of the matter. However, the fact that the applications for bail were allowed by the High Court without considering the import and effect of Section 37 of the Act, is quite clear from the record.

While setting aside the orders passed by the High Court, we direct all the respondents to surrender themselves before the Trial Court within four weeks from today, failing which the bail bonds given by them shall stand forfeited and the police will be at liberty to take into custody.

If the concerned Trial Court does not frame charges pertaining to “commercial quantity” under the relevant Sections of the Act, the respondents will be at liberty to prefer fresh bail applications which will be considered purely on merits.

With the aforesaid observations, these appeals are allowed.

.....J. (UDAY UMESH LALIT) .....J. (K.M. JOSEPH) New Delhi,  
April 19, 2021.

ITEM NO.20 Court 4 (Video Conferencing) SECTION II S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 24219/2020  
(Arising out of impugned final judgment and order dated 23-09-2019 in CRMBA No. 38036/2019  
23-09-2019 in CRMBA No. 38066/2019 23-09- 2019 in CRMBA No. 38048/2019 passed by the  
High Court Of Judicature At Allahabad) NARCOTICS CONTROL BUREAU Petitioner(s) VERSUS  
LAXMAN PRASAD SONI ETC. ETC. Respondent(s) (FOR ADMISSION and I.R. and IA  
No.119260/2020-CONDONATION OF DELAY IN FILING and IA No.119261/2020-EXEMPTION  
FROM FILING C/C OF THE IMPUGNED JUDGMENT WITH Diary No(s). 24198/2020 (II) (IA No.  
124523/2020 - CONDONATION OF DELAY IN FILING,;IA No. 124526/2020 - EXEMPTION  
FROM FILING C/C OF THE IMPUGNED JUDGMENT IA No. 124524/2020 - EXEMPTION FROM  
FILING O.T.) Date : 19-04-2021 These matters were called on for hearing today. CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT HON'BLE MR. JUSTICE K.M.  
JOSEPH For Petitioner(S) Mr. S. V. Raju Ld. (ASG) Mr. Sairica Raju,Adv.

Mr. B. K. Satija, Adv.

Mr. Merusagar Samantaray, Adv.

Mr.Samar Singh Kachana, Adv.

Mr. B. V. Balaram Das, Aor For Respondent(S) Mr. Gaurav Agarwal, Advocate Ms. Shristi Gupta, Adv.

Mr. Raj Singh Rana, Aor UPON hearing the counsel the Court made the following O R D E R Delay condoned.

Leave granted.

The appeals are allowed in terms of the signed order. Pending applications, if any, shall stand disposed of.

(INDU MARWAH)  
COURT MASTER (SH)

(VIRENDER SINGH)  
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)