



ITEM NO.4

COURT NO.2

SECTION II-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No. 4648/2024

(Arising out of impugned final judgment and order dated 02-01-2024  
in MCRC No. 50393/2023 passed by the High Court of M.P. at Indore)

ANKUR CHAUDHARY

Petitioner(s)

VERSUS

STATE OF MADHYA PRADESH

Respondent(s)

(IA No. 78978/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT and IA No. 78979/2024 - EXEMPTION FROM FILING O.T.)

Date : 28-05-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.K. MAHESHWARI  
HON'BLE MR. JUSTICE K.V. VISWANATHAN  
(VACATION BENCH)

For Petitioner(s)

Mr. Sidharth Dave, Sr. Adv.  
Ms. Akriti, Adv.  
Mr. Rajesh Ranjan, Adv.  
Mr. Adil Vasudeva, Adv.  
Mr. Prateek Yadav, AOR

For Respondent(s)

Mr. Pashupathi Nath Razdan, AOR  
Mr. Mirza Kayesh Begg, Adv.  
Ms. Maitreyee Jagat Joshi,, Adv.  
Mr. Astik Gupta, Adv.  
Ms. Akanksha Tomar, Adv.  
Mr. Argha Roy, Adv.  
Ms. Ojaswini Gupta, Adv.  
Ms. Ruby, Adv.

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

The petitioner is in custody since last more than two  
years in connection with FIR No. 305 of 2022 registered at

Police Station-Chandan Nagar, District Indore (M.P.) for the offence punishable under Section 8 read with Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “NDPS Act” for brevity).

Previously, when the petitioner approached this Court, *vide* order dated 15.5.2023, his bail petition was not entertained. However, liberty was granted to approach the trial Court for bail, after the examination of the panch witnesses.

Learned counsel for the petitioner submits that the panch witnesses viz., PW3 (Sunder Pal) and PW4 (Vinod Rathore) have been examined and they have not supported the case of prosecution. On being applied afresh, the trial Court rejected his bail application only on the pretext that the Investigation Officer may also be a panch witness who has yet to examine. The High Court also rejected the bail application affirming those findings by the impugned order.

Learned counsel appearing on behalf of the respondent-State submits that in the facts of this case, the Investigation Officer may be treated as panch witness; therefore, the High Court has rightly rejected the bail application.

Heard learned counsel for the parties. We have

considered the facts and all attending circumstances including the period of custody and also the previous orders where this Court while rejecting the bail was of the view that after the panch witness depose, fresh recourse may be taken.

Now, on examination, the panch witnesses have not supported the case of prosecution. On facts, we are not inclined to consider the Investigation Officer as a panch witness. It is to observe that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered.

In view of the above, we are inclined to allow this petition and direct to enlarge the petitioner on bail on furnishing the suitable bail bonds and sureties and on such other terms and conditions as may be deemed fit by the trial Court.

It is needless to observe that the petitioner shall regularly attend the trial until exempted by the orders of the Court. Violation, if any, may give a cause to take recourse as

permissible and the trial Court would be at liberty to do the  
needful.

Accordingly, and in view of the foregoing, this Special  
Leave Petition stands allowed. Pending applications(s), if any,  
shall stand disposed of.

**(NIDHI AHUJA)**  
**AR-cum-PS**

**(VIRENDER SINGH)**  
**BRANCH OFFICER**