

2025 (391) E.L.T. 51 (S.C.)

IN THE SUPREME COURT OF INDIA

J.K. Maheshwari and Rajesh Bindal, JJ.

SHEIKH NIZAMUDDIN MOHD. KASIM

Versus

INTELLIGENCE OFFICER

Petition for Special Leave to Appeal (Crl.) No. 2939 of 2024, decided on 24-9-2024

NDPS - Bail - Offences - Cognizable and non-bailable - Seizure of commercial quantity of Hashish - Attempted export - Delay in commencement of trial - In impugned order, High Court had denied bail to accused petitioner from whom commercial quantity of 3000 gm of Hashish was seized on his attempted export while going abroad - His petition for bail on ground of delay of commencement of trial was rejected by High Court in view of seriousness of alleged offence and citing huge pendency of cases before trial Court - On filing SLP before Supreme Court, *HELD* : Petitioner had been languished in jail for past more than five years - Looking in to fact that trial may take time to conclude, petitioner was directed to be released on bail on furnishing suitable bail bonds and sureties and on such other terms and conditions as may be imposed by trial Court which were to be abided by petitioner - In case of any violation by petitioner, trial Court was at liberty to take suitable action as per law - Section 37 of Narcotic Drugs and Psychotropic Substances Act, 1985 - Section 439 of Code of Criminal Procedure, 1973 - Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023. *[paras 2 to 4]*

Petition allowed against department

CASE REVIEW

Sheikh Nizamuddin Mohd. Kasim v. Intelligence Officer — (2024) 23 Centax 292 (Kar.) — **Reversed**

REPRESENTED BY : Ms. Maheravish Rein, Advocate and Aldanish Rein, AOR, for the Petitioner.

S/Shri Rajat Nair, Santosh Kumar, Ms. Astha Arya, Ms. Shreya Jain, Sunit Choudhary, Advocates and Gurmeet Singh Makker, AOR, for the Respondent.

[Order]. - Against rejection of regular bail by the High Court and to seek bail, the present special leave petition has been filed. The petitioner is in custody w.e.f. 14-9-2019 in connection with Crime No. DRI/BZU/S-IV/ENQ-30 (INT-NIL) of 2019 for the offences punishable under Section 8(c) read with Sections 21(c), 23(c), 28 and 29 of the N.D.P.S. Act read with Section 135A of the Customs Act registered with Directorate of Revenue Intelligence, Bangalore Zonal Unit, Bangalore.

2. We have gone through the orders of the pending trial thereby it reveals that the case is pending consideration of the application of discharge filed by accused No. 2. Looking to the period

of incarceration of the petitioner, which is more than 5 years and the trial may take time to conclude, we are inclined to allow this petition and direct to release 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.

3. Petitioner to abide all the conditions as imposed and shall regularly attend the trial until exempted by the Court. Violation, if any, may give a cause to take recourse as permissible and the trial court is at liberty to do the needful.

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