

ITEM NO.1

COURT NO.8

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. 631/2024

(Arising out of impugned final judgment and order dated 05-07-2023 in MCRC No. 24404/2023 passed by the High Court of M.P. at Indore)

BABLU SINGH

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH

Respondent(s)

(IA No. 77661/2024 - EXEMPTION FROM FILING O.T. and IA No. 262070/2023 - EXEMPTION FROM FILING O.T. and IA No. 262069/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 29-07-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s)

Mr. N. K. Mody, Sr. Adv.
Mr. Prabuddha Singh Gour, Adv.
Ms. Ishita M. Puranik, Adv.
Mr. Sukhamrit Singh, Adv.
Mr. Suresh Kumar Bhan, Adv.
Mr. Nityanand Mahato, Adv.
Mr. Praveen Swarup, AOR

For Respondent(s)

Mr. Pashupathi Nath Razdan, AOR
Mr. Bittu Kumar Singh, Adv.
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.
Mr. Zartab Anwar, Adv.

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

1. In the present Special Leave Petition prayer made is for

grant of regular bail. The petitioner is an accused in F.I.R. No.0358 of 2020 registered at the Police Station Neemuch City, Dist. Neemuch, Madhya Pradesh, under Sections 8/18 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 on 11.09.2020. The petitioner was stated to be in custody since then. Challan was filed on 07.03.2021. Charges were framed on 16.10.2021. The argument raised by learned counsel for the petitioner was that along with the chargesheet the FSL report had not been submitted. The aforesaid fact was not disputed by the learned counsel for the State.

2. As the petitioner was languishing in jail since 11.09.2020 without there being the report from FSL regarding the stuff allegedly recovered from the petitioner, on 16.02.2024 this Court granted interim bail to him.

3. Vide the aforesaid order, direction was issued to the Additional Director General of the Police (Narcotics Wing) to file an affidavit enumerating details as to in how much matters FSL reports had not been filed along with the Challans and what steps are being taken to procure the FSL reports at the earliest.

4. In response to the aforesaid order, Affidavit dated 30.03.2024 was filed by the Additional Director General of the

Police (Narcotics Wing), Madhya Pradesh. It was mentioned therein that out of total 24,169 cases registered under the NDPS Act in the State in 7,158 cases, FSL reports had not been submitted along with the challan. As per the NDPS Act challan has to be filed within 60 days in the cases involving small quantity and within 180 days in the cases involving commercial quantity. The failure can result in default bail. In cases where FSL report is not received, the challans are filed based on the acknowledgement receipts for deposit of samples in FSL. After receipt of the reports, the same are submitted in court.

5. Instructions have been issued to all the officers on 07.03.2024 to submit challans in courts in NDPS cases only after obtaining FSL reports.

6. Explaining the delay in receipt of FSL reports it was stated that currently FSL unit is experiencing shortage of manpower. FSL Laboratory which is under the Madhya Pradesh Police, is in process of recruiting 46 laboratory technicians and laboratory assistants. The Department is in process of upgrading Forensic Science Laboratory in the State.

7. Recording dissatisfaction with the affidavit filed by the Additional Director General of the Police, this Court vide

order dated 09.07.2024 directed for furnishing the following information :

- (i) As to how many posts in the FSL Labs are sanctioned;
- (ii) Since when those posts are vacant; and
- (iii) Why the steps to reinforce the effective investigation making available the manpower have not been taken.

8. In response thereof, Affidavit dated 27.07.2024 has been filed by the Additional Director General of Police (Narcotics Wing), M.P.. The delay is sought to be explained while stating that there is a stay by this Court on promotion in a matter pending before this Court. Certain information was provided regarding the recruitments made.

9. In the chart annexed as Annexure R-5 with the Affidavit, the information furnished therein is astonishing. There are total 505 sanctioned posts. Out of which only 190 are filled up and 315 are vacant i.e. more than 62% posts are still lying vacant. To mention a few, 2 sanctioned posts of Additional Director General are lying vacant; out of 15 sanctioned posts of Junior Director, 14 are lying vacant; out of 88 Senior Scientific Officers, 72 are lying vacant; for Lab Technician out of 60 sanctioned posts, 44 are lying vacant; for

Lab Assistant 87 sanctioned posts, 65 are lying vacant; for Lab Attendant out of 59 sanctioned posts, 45 are lying vacant. This being the position of manpower available no one can expect submission of FSL reports in time.

10. The communication dated 07.03.2024 issued by the Police Headquarters, Narcotics Branch, Madhya Pradesh, Bhopal, may complicate the situation further.

11. The case in hand is not an isolated one. Regularly the matters are listed before this Court pertaining to different States where similar arguments are raised by learned counsel for the petitioner regarding non-submission of FSL/Lab reports in different types of crimes along with the chargesheet.

12. To consider the issue on larger canvas as this difficulty is being faced throughout the country, we deem it appropriate to appoint Mr. Nikhil Goel, Senior Advocate, to assist the Court as amicus, who shall be at liberty to take assistance from any A.O.R.(s). This Court will pass order regarding honorarium to be paid to the learned amicus and A.O.R.(s) later.

13. The Registry is directed to supply complete set of paper book of this Special Leave Petition to the office of learned

amicus, Mr. Nikhil Goel, Senior Advocate, along with a copy of this order.

14. List the matter on 05.08.2024.

(NIDHI AHUJA)
AR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)