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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 12th July, 2019

+ CrI.M.C.480/2019 & CrI.M.A. 2062/2019

VINDHYACHAL MISHRA @ DUBE JI Petitioner

Through: Mr. Arvind Kr. Shukla, Mr.
Nihal Ahmad, Mr. Kunal
Yadav, Ms. Neena, Ms. Zia
Ahmed & Ms. Reetu Sharma,
Advs.

versus

STATE OF NCT DELHI Respondent

Through: Mr. Amit Chadha, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is facing proceedings in a criminal case arising out of report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) submitted upon conclusion of investigation into first information report (FIR) no. 176/2018 of police station Crime Branch of Delhi Police involving offences allegedly committed under Section 20, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). Concededly, after cognizance was taken by the special Court, the process was issued against him in terms of Section 204 Cr.P.C. The case, it appears, is at the stage of consideration of charge.

2. By the present petition filed before this Court under Section 482 Cr.P.C, prayer is made for the proceedings in the said case to be quashed on various grounds primarily the claim being that the petitioner is innocent and falsely implicated, the procedure adopted by the investigating agency being designed to falsely frame him, several illegalities having been committed, there being breaches of the mandatory provisions of the law contained in NDPS Act.

3. At the hearing, questions arose as to why the petitioner should come up to this Court under Section 482 Cr.PC. instead of making the submissions before the trial court which is now at the stage of considering the material for deciding as to whether charge is made out or not.

4. The counsel responded by saying that co-accused Arvind Kumar is absconding and proceedings to declare him proclaimed offender have resulted in the progress being held up, the design of the respondent being to keep him in custody to the extent possible.

5. The learned additional public prosecutor, however, placed before the Court, copy of the proceedings recorded by the Special Judge on 23.05.2019, the correctness whereof was not questioned. The said proceedings reveal that the petitioner had raised grievance regarding deficiency in supply of legible documents under Section 207 Cr.P.C. by making an application, the requisite documents having been supplied to him on the same date thereby satisfying the mandatory requirement of the said provision of law, the case thereafter having been adjourned for arguments on charge to 08.07.2019 because the main counsel was not available. The learned additional public

prosecutor also pointed out that documents had been initially supplied to the petitioner under Section 207 Cr.P.C. as far back as on 12.11.2018.

6. From the above, this Court finds that there has been no intentional delay on the part of the prosecution or investigating agency. There is no explanation why the deficiency, if any, in legible copies (which were supplied on 12.11.2018) could not have been pointed out prior to the moving of an application on 23.05.2019. It is also noted that co-accused Arvind Kumar, as per the above proceedings was declared proclaimed offender on 29.04.2019 whereafter there is no inhibition in the question of charge being considered by the concerned court. The deferment of the said consideration, it appears, had to be ordered by the Special Judge because the counsel for the petitioner himself was not available.

7. The investigation has already been completed. The stage is now set before the Special Judge for question of charge to be considered. There is no reason why the contentions urged by the petitioner before this Court by the petition at hand cannot be raised before the special court under NDPS Act at the stage of consideration of charge. There is no reason why there should be a departure from the normal procedure prescribed in law.

8. The petitioner will have the liberty to raise the contentions set out in the petition before the concerned court at the hearing on the question of charge and if need be thereafter at the trial.

9. It being inappropriate for this Court to intervene at this stage of the judicial process under Section 482 Cr.P.C., the petition and the pending application are dismissed.

R.K.GAUBA, J.

JULY 12, 2019

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HIGH COURT OF DELHI



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