

VERDICTUM.IN

SLP (Cr1.) No. 12168/2022

ITEM NO.10

COURT NO.14

SECTION II-B

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 for Special Leave to Appeal (Cr1.) No. 12168/2022

(Arising out of impugned final judgment and order dated 07-11-2022 in CRM (NDPS) No. 1305/2022 passed by the High Court at Calcutta)

SAHIMINA BISWAS

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL

Respondent(s)

(IA No. 195456/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 01-03-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE DIPANKAR DATTA

For Petitioner(s) Mr. Rajiv R. Mishra, Adv.
Mr. Saurabh, Adv.
Ms. Suruchi Yadav, Adv.
Mr. Yadav Narendra Singh, AOR

For Respondent(s) Ms. Astha Sharma, AOR
Mr. Srisatya Mohanty, Adv.
Mr. Sanjeev Kaushik, Adv.
Ms. Mantika Haryani, Adv.
Mr. Shreyas Awasthi, Adv.
Mr. Himanshu Chakravarty, Adv.
Mr. Bhanu Mishra, Adv.
Mr. Devvrat Singh, Adv.
Ms. Muskan Surana, Adv.

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

The petitioner is accused of committing offence punishable under Section 21(C) of the Narcotic Drugs And Psychotropic Substances, Act, 1985. The allegation was that she was traveling with her husband in a car (on 28.05.2022). They were stopped and 1542 Yaba tablets were recovered from her husband. The

petitioner, her husband and three minor children (including a 16 months old baby, two twins aged 7 years) and a son aged 18 years were detained. The petitioner has no previous history of being involved in any offence. The arrest memo, placed on the record shows that the petitioner was taken into custody along with the children. While issuing notice the Court had directed the petitioner to be enlarged on bail.

Learned counsel for the State points out that the children were not arrested but keeping in mind the fact that they could not be separated from the mother, they too were taken in custody along with her. This Court is of the opinion that prima facie the police authorities did not apply their minds while taking into the custody petitioner a woman with three minor children. The allegation is that prohibited substance was recovered from the possession of the husband; and the petitioner-wife was traveling with him. Taking into account these circumstances, the arrest of the petitioner-wife was wholly unnecessary - even excessive, as she had no previous history of alleged criminal behavior.

In view of the foregoing the interim bail granted by this Court on 16.12.2022 is hereby confirmed. The petitioner shall continue to be enlarged on bail subject to such conditions as the Trial Court may impose.

The special leave petition is allowed in the above terms.

All pending applications are disposed of.

(NEETA SAPRA)
COURT MASTER (SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)