

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 177 OF 2017

Mr. Clive Ellens
Son of Neveille Ellens
Indian National
Major of age
Resident of 3rd Floor,
Veleria Apts.,
Flat No. 8,
Opp. Dias Building,
Mangor Hill, Vasco-Goa

.... Petitioner.

Versus

1. The State of Goa
Through Police Inspector
ANC Police Station
Panaji, Tiswadi-Goa
2. Public Prosecutor
High Court of Bombay at Goa

.... Respondents

Mr. Galileo F. Teles, Advocate for the petitioner.
Mr. Mahesh Amonkar, Additional Public Prosecutor for the Respondents.

Coram :- C. V. BHADANG &
PRITHVIRAJ K. CHAVAN, JJ

Date : 09th November, 2017.

ORAL JUDGMENT: (Per. C. V. BHADANG, J).

Rule, made returnable forthwith. The learned Additional Public Prosecutor for the Respondents waives service. Heard finally by consent of parties.

2. The only prayer made in this Petition is for directing the

expeditious disposal of the trial in Criminal Case No. AOA/217/2010/B before the learned Judicial Magistrate First Class, 'B' Court at Panaji.

3. The Petitioner is the accused no. 2 before the learned Trial Court. The Petitioner and the co-accused are facing prosecution for the offences punishable under Section 20(b)(ii)(A) of NDPS Act, 2001. Indisputably, it is a summary criminal case. The roznama discloses that the last prosecution witness was examined on 24.04.2015 and since then there has been no progress in so far as the examination of the witnesses is concerned. The learned Counsel for the Petitioner has pointed out that one of the prosecution witnesses, PW-4, was partly examined on 28.02.2014 and the prosecution has been unable to secure his presence for his further evidence.

4. The learned Additional Public Prosecutor has pointed out from the roznama that the delay is partly on account of the fact that the accused no. 1 was absent on some dates of hearing. It is also pointed out that on 28.02.2017 both the accused were absent.

5. The record discloses that on the dates on which the accused no. 1 and for the matter of that the Petitioner, who is the accused no. 2, were absent, their personal appearance was exempted. In any case, the roznama does not show that on such dates on which the Petitioner or the co-accused were absent, the PW/s were present and the matter was required to be adjourned only on account of the absence of the

Petitioner and/or of the co-accused.

6. The learned Additional Public Prosecutor, on instructions, states that there are two prosecution witnesses who remain to be examined both of them being Investigating Officers.

7. It is now well settled that speedy and fair trial is part of the fundamental right under Article 21 of the Constitution of India, (see ***Hussain & Anr V/s Union of India: AIR 2017 SC 1362.***)

8. Considering the overall circumstances, we find that it would be appropriate to direct the learned Magistrate to proceed with the trial as expeditiously as possible and to conclude the same in a time bound manner.

9. In such circumstances, we direct the learned Magistrate to conduct the trial as expeditiously as possible and to conclude the same preferably within a period of 6 months from the receipt of this order.

10. Rule is made absolute in the aforesaid terms.

PRITHVIRAJ K. CHAVAN, J

C. V. BHADANG, J

msr.