

# Supreme Court

Ganga Bahadur Thapa Vs State of Goa

7 October 1999

Hon'ble Judges: R.P.Sethi, G.T.Nanavati

**Advocates Appeared:** .Narcotic Drugs and Psychotropic Substances Act,1985 ,Section 43.Narcotic Drugs and Psychotropic Substances Act,1985 ,Section 42

**Case Number:** 774 of 1996

G.T.NANAVATI,

J.

(1) THE only point which arises for consideration in this appeal is whether a room in a hotel occupied by a customer can be said to be a public place for the purpose of Section 43 of the NDPS Act.

(2) THE evidence clearly establishes that the appellant had booked a room in Hotel Safari and that he was in occupation thereof. The evidence also establishes that on 1-12-1991 at about 6.30 p.m., the appellant was in possession of the key of that room and with that key he had opened the room, when he was called upon by the officers of the Narcotics Bureau to do so. It was from the bag pointed out by him that charas weighing 2.860 kg was found. The bag had contained his clothes also. It is also proved by the report of the chemical analyser that the material which was thus seized from the possession of the appellant was charas.

(3) THE only contention raised before us was that a room in a hotel when it is occupied by a customer cannot be said to be a public place as no one has thereafter a right to enter that room except the said occupier and the owner of that room. We do not find any substance in this contention. The explanation to Section 43 makes it clear that for the purpose of that section public place includes any public conveyance, hotel, shop, or other place intended for use by, or accessible to, the public. It is not in dispute that the said hotel was intended for use by, or accessible to, the public. Merely because a customer is allowed to occupy a room in the hotel, it would not cease to be a hotel. Even after occupation by a customer it would remain a hotel and not a private property of the occupier. It would not cease to be a public place as contemplated by Section 43. For that reason, we cannot accept the contention that because the raid was made after sunset and no grounds as contemplated by Section 42 were recorded, the search was illegal and the evidence regarding recovery pursuant to that illegal search was not admissible.

(4) AS we do not find any substance in the only contention raised in this appeal, it is dismissed.