

204 In the High Court of Punjab and Haryana at Chandigarh

CRM-M-11863-2015
Date of decision: 27.04.2015

Trifley Naukhez Nisa @ Naushad

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:- Mr.Veneet Sharma, Advocate
for the petitioner.

Mr. Varun Sharma, AAG, Punjab.

RAJ MOHAN SINGH, J.

Learned counsel for the petitioner submits that petitioner was arrested on 03.10.2014. A requisite period for filing report under Section 173 Cr.P.C. expired on 30.03.2015. An application for extension of time beyond 180 days was moved on 17.03.2015 and the same was allowed on 19.03.2015. Prayer in terms of Section 167(2) Cr.P.C., has been declined vide order dated 01.04.2015. Learned counsel relies upon **2010 (1) RCR (Criminal) 942, “Sanjay Kumar Kedia @ Sanjay Kedia Vs. Intelligence Officer, Narcotic Control Bureau and another”** to contend that extension can be granted if stringent conditions are satisfied. These conditions are :-

- (i) a report of the public prosecutor,
- (ii) which indicates the progress of investigation and
- (iii) specifies the compelling reasons for seeking the detention of the accused beyond the period of 180 days, and
- (iv) after notice to the accused.

Learned counsel refers that the notice has been issued to the accused on his home address knowing fully well that the accused is in

custody. On the notice so issued, a report of refusal has been procured and in this way there is total non-compliance of conditions as formulated in aforesaid **Sanjay Kumar Kedia @ Sanjay Kedia's case(supra)**.

Learned counsel further states that non-availability of FSL report is no ground to seek extension in time beyond 180 days. Reliance has been placed in **CRM-M-41673 of 2013 titled as "Jeevan Sharma @ Vicky Vs. State of Punjab" decided on 15.01.2014.**

State counsel, on instructions from Head Constable Tarsem Singh, however, submits that keeping in view the recovery of 260 grams of heroine, the petitioner is not entitled to any protection much less under Section 167(2) Cr.P.C. Petitioner has infeasible right in terms of Section 167(2). The report of public prosecutor must indicate application of mind in respect of progress of investigation and the compelling reasons for extension beyond 180 days. This right cannot be extinguished if law confers such a right upon accused.

Keeping in view the aforesaid, the petitioner is ordered to be released on regular bail in terms of Section 167(2) Cr.P.C. to the satisfaction of Chief Judicial Magistrate, Tarn Taran.

27.04.2015
anju

(RAJ MOHAN SINGH)
JUDGE