IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM NO. M-12884 of 2015
DECIDED ON : May 15, 2015

Baljinder Singh @ Billa

...Petitioner

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. R.S. Sekhon, Advocate,
for the petitioner.

Mr. RPS Sidhu, AAG, Punjab.

JASPAL SINGH, J. (ORAL)

Instant petition has been filed under Section 439 Cr.P.C seeking regular bail to the petitioner in case FIR No. 153 dated October 02, 2014 under Section 21 of the Narcotics Drugs & Psychotropic Substances Act, 1985 (for short 'Act'), registered at Police Station Kulgarhi, District Ferozepur.

2. Learned counsel for the petitioner submits that he filed bail application under Section 167(2) Cr.P.C. on March 31, 2015 in the registry and the bail application was listed before learned Special Judge, Ferozepurt on April 01, 2015 i.e. on 181st day. He further submits that on the very same day i.e. April 01, 2015 the police also presented the challan at about 2.00 P.M.

3. It is an undisputed fact that petitioner was arrested in this case

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on October 02, 2014 and sent to judicial custody on October 03, 2014. An application for extension of time under Section 36-A of Act was moved on March 31, 2015, it was listed on April 01, 2015 at 10.00 AM i.e. 181st days. The challan was presented in this case on April 01, 2015 i.e. 181st days (after the expiry of 180 days).

4. Due to the non-presentation of challan within the stipulated period, an indefeasible right stood accrued to the petitioner for bail entitling him to be released under Section 167(2) Cr.P.C. In such a situation, impugned order passed by Special Judge, Ferozepur is not sustainable and deserves to be set aside.

5. Accordingly, instant petition is allowed and petitioner is ordered to be released on bail to the satisfaction of learned trial Court.

May 15, 2015 **(JASPAL SINGH)**
sham **JUDGE**

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