

***IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH***

**CRM-M-17090 of 2015
Date of Decision:3.6.2015**

Ninderpal

..... Petitioner

Versus

State of Punjab

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Vikasdeep Singh, Advocate
for the petitioner.

Mr.Ankur Jain, AAG, Punjab.

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest.

RAJIV NARAIN RAINA, J.(Oral)

This is an application under Section 439 read with Section 167 (2) of Cr.P.C. for grant of a regular bail in FIR No.382 dated 6.9.2014 registered under Section 15 NDPS Act at PS Nakodar, Jalandhar City.

The Coordinate Benches have granted regular bail to 4 of the accused among 7 of them by invoking Section 167 (2) Cr.P.C. as the challan could not be presented within the time prescribed and, therefore, Coordinate Benches reasoned that indefeasible rights to be released on bail had accrued to those petitioners who have been released after 2.4.2015 and could not have been defeated by keeping a 2nd application under Section 167 (2)

Cr.P.C. together with the application under section 36 A of the NDPS Act

pending till 15.4.2015.

Learned Judge has relied on the Supreme Court decision in **Union of India through CBI v. Nirala Yadav @ Raja Ram Yadav @ Deepak Yadav**, 2014 (4) RAJ 265 where directions were issued that the application under Section 36 A (4) of the NDPS Act should be disposed of by the Magistrate concerned on the same day as compliance is strict. Therefore, the application filed by the State for extension of time to file the challan entitle the accused to bail after the period of first extension had expired.

I am in respectful agreement with the orders of the Coordinate Benches in **CRM-M-15204 of 2015; Balbir Singh @ Kalu and others v. State of Punjab** decided on 15.5.2015 and **CRM-M-15213 of 2015; Shinder Singh v. State of Punjab** decided on 21.5.2015.

For the foregoing reasons, this petition is allowed. It is directed that the petitioner be released on bail in terms of Section 439 Cr.P.C. Bail to the satisfaction of the CJM/Duty Magistrate, Jalandhar.

Nothing said herein shall be construed to be an expression on the merits of the case.

3.6.2015

Paritosh Kumar

(RAJIV NARAIN RAINA)
JUDGE