

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl.Misc.No.M-17598 of 2015(O&M)

Date of Decision : 13.07.2015

Sandeep Singh @ Soni

....Petitioners

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr. S.S.Nara, Advocate for the petitioner

Mr. Anmol Malik, AAG, Haryana

MAHESH GROVER, J.

The petitioner prays for grant of regular bail in terms of Section 439 Cr.P.C in case FIR no.65 dated 24.7.2014 registered under Sections 15, 61, 85 of NDPS Act at Police Station Tapa, District Barnala.

Learned counsel for the petitioner contends that the petitioner was arrested on 24.07.2014 and the requisite period of 180 days for filing challan stood expired on 20.01.2015.

The application for extension of time was moved on 19.01.2015 which was allowed on 12.02.2015, thereby granting two months time more for filing the challan. Despite the extension having been granted, no challan has been presented even after extension within the stipulated time.

Learned counsel further states that indefeasible rights in terms of Section 167(2) Cr.P.C. accrued to the petitioner on expiry of 180 days i.e. On 20.01.2015 and the extension with retrospective effect is not permissible, in view of "*Som Nath and another Vs. State of Punjab in CRM-M-10219 of 2011 decided on 28.04.2011*" and "*Sayed Mohd. Kazmi Vs. State GNCTD and others 2012(4) RCR (Crl.) 857*". He further submits

that co-accused has been released on bail in similar circumstances.

Learned State counsel refutes the submission of learned counsel for the petitioner. The facts remain that application for extension of time though moved on 19.01.2015 but it was allowed after expiry of 180 days period. Such procrastination frustrates the legislative mandate, which cannot be made to extinguish if law so permits to the accused.

On due consideration of the matter and noticing the aforesaid facts, the instant 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 learned Trial Court.

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

July 13, 2015
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(Mahesh Grover)
Judge