

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-20165-2015

Date of Decision: September 22, 2015

Harbans Lal

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI**

Present: Mr. Tushant Deep Garg, Advocate,  
for the petitioner.

Mr. P.S. Ghuman, Addl. AG, Punjab,  
for the respondent.

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|----|------------------------------------------------------------------------------|------------|
| 1. | <i>Whether Reporters of local papers may be allowed to see the judgment?</i> | <b>YES</b> |
| 2. | <i>To be referred to the Reporters or not?</i>                               | <b>YES</b> |
| 3. | <i>Whether the judgment should be reported in the Digest?</i>                | <b>YES</b> |

**NARESH KUMAR SANGHI, J (Oral)**

Prayer in this petition, filed under Section 439 read with Section 167(2), Cr.P.C., is for grant of regular bail to the petitioner, Harbans Lal, son of Sunder Lal, resident of Hira Nagar, Shutrana, Tehsil Patran, District Patiala, who has been booked for having committed the offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, 'the NDPS Act'), for retaining 1150 intoxicating pills, in a case arising out of FIR No. 104, dated 27.11.2014, registered at

Police Station, Ghagga, District Patiala.

Learned counsel contends that as per prosecution version the petitioner while in possession of 1150 intoxicating pills, was arrested on 27.11.2014; he was produced before learned Area Judicial Magistrate on 28.11.2014 and on the same day was sent to judicial custody; on 18.5.2015, learned Assistant Public Prosecutor moved an application for extension of time for completing the investigation; the notice of the said application was issued to the petitioner for 21.5.2015 and thereafter it was adjourned to 3.6.2015; in the meantime, the petitioner moved an application under Section 36-A of the NDPS Act read with Section 167(2), Cr.P.C., for grant of bail to him (petitioner) since 180 days had expired and the charge-sheet (report under Section 173, Cr.P.C.) was not presented; and that the bail application filed by the petitioner as well as the application presented by learned Assistant Public Prosecutor for extension of time were heard and decided on 30.5.2015, whereby the application of the petitioner for grant of bail was dismissed while the application for extension of time was allowed.

Learned counsel for the petitioner further contends that since 180 days from the date of the judicial custody of the

petitioner had expired on 26.5.2015 and by that time the charge-sheet (report under Section 173, Cr.P.C.) was not presented, therefore, right had accrued to the petitioner for grant of bail. The petitioner moved an application for grant of bail on 27.5.2015. Learned Magistrate could extend the time before expiry of 180 days, therefore, the extension granted vide order dated 30.5.2015, was also against the settled norms.

Learned counsel for the State has not controverted the factual aspects raised by learned counsel for the petitioner. However, he submits that the charge-sheet (report under Section 173, Cr.P.C.) was presented on 27.6.2015 and thereafter the trial is proceeding, therefore, at this stage it will not be of any consequence to grant bail to the petitioner.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

There is no dispute with regard to the facts that right had accrued to the petitioner for grant of bail on 26.5.2015 when the charge-sheet was not presented within 180 days from the first date of his judicial custody. It is also not in dispute that the petitioner presented an application for grant of bail on 27.5.2015

before presentation of the charge-sheet (report under Section 173, Cr.P.C.). It is also not in dispute that learned Magistrate had not acceded to the request of learned Assistant Public Prosecutor for extension of time before expiry of 180 days. Therefore, the petitioner has made out a case for grant of bail to him.

As a result of the above discussion, the present petition is allowed. The petitioner, Harbans Lal, son of Sunder Lal, resident of Hira Nagar, Shutrana, Tehsil Patran, District Patiala, is directed to be released on bail during pendency of the trial of the present case subject to his furnishing bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Patiala.

**(NARESH KUMAR SANGHI)**  
**JUDGE**

**September 22, 2015**  
Pkapoor