

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

**CRM NO. M-20708 of 2015  
DECIDED ON : JULY 09, 2015**

**HARDEEP SINGH**

**.....PETITIONER**

**VERSUS**

**STATE OF PUNJAB**

**.....RESPONDENT**

**CORAM : HON'BLE MR. JUSTICE JASPAL SINGH**

Present : Mr. Munish Kumar Singla, Advocate for  
Mr. Dinesh Kumar, Advocate  
for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

**JASPAL SINGH, J. (ORAL)**

Instant petition has been filed under Section 482 read with Section 439 Cr.P.C read with Section 167 (2) Cr.P.C for quashing of order of extension order dated June 15, 2015 (Annexure P-5) passed under Section 36-A (4) Narcotics Drugs & Psychotropic Substances Act, 1985 (for short 'Act') as well as grant of bail to the petitioner in case FIR No. 131 dated December 14, 2014 under Section 22 of the Act, registered at Police Station Banur, District Patiala.

2. Undisputed facts of the case are that petitioner was arrested on December 14, 2014 by the Investigating Officer and he was produced before learned Illaqa Magistrate on next day i.e. December 15, 2014. A prescribed period of 180 days for presentation of challan under the Act was expired on June 13,

2015 and accordingly, an application under Section 167(2) Cr.P.C was moved by petitioner before learned trial Court. However, on the same day i.e. June 13, 2015 prosecution also moved an application under Section 36-A (4) of the Act for extension of time. The application under Section 36(A) (4) of the Act moved by prosecution as well as an application under Section 167(2) Cr.P.C. preferred by petitioner was disposed of by learned trial Court by way of consolidated order dated June 15, 2015 whereby, prosecution was granted a period of 30 days more to conclude the investigation and to present report under Section 173(2) Cr.P.C. before learned Illaqa Magistrate. However, on the same day an application moved by petitioner under Section 167 (2) Cr.P.C. was dismissed simply on the ground that since application for extension of time has already been allowed, bail application resultantly, stands dismissed.

3. Here it would be pertinent to mention that no notice of application moved by prosecution for extension of time dated June 13, 2015 was given to the accused. No reply has also been sought from petitioner by learned trial Court. Moreover, period under Section 36-A (4) of the Act was also extended vide order dated June 15, 2015 i.e. after the expiry of 180 days though an application was moved on June 13, 2015. After the expiry of period of 180 days on June 13, 2015, an indefeasible right had accrued to the petitioner. There is also nothing on record to suggest that petitioner was afforded an ample opportunity to defend application for extension of time.

4. By now it is pretty settled that Court cannot act to extinguish the right of an accused if the law so confers on him. Law has to prevail. The prosecution cannot avail such subterfuges to frustrate or destroy the legal right of the accused which is otherwise not permissible. After the expiry of extended period, an

indefeasible right stood accrued to the petitioner on March 14, 2015, which has been sought to be scuttled down by learned trial Court by way of allowing application for extension of time, that too, without hearing the accused/petitioner, against whom, the order was passed.

5. Accordingly, instant petition is allowed; order dated June 15, 2015 is set aside and petitioner is ordered to be released on bail to the satisfaction of learned trial Court.

**JULY 09, 2015**  
*sham*

**(JASPAL SINGH)**  
**JUDGE**