

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

CRM No.M-21523 of 2015 (O&M)

Date of decision:17.07.2015

Balbir Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Amit Dhawan, Advocate for the petitioner.

Mr. Mikhail Kad, AAG Punjab.

...

TEJINDER SINGH DHINDSA, J.

The present petition has been filed under Section 439 Cr.P.C read with Section 167(2) Cr.P.C. seeking concession of regular bail to the petitioner pending trial in case FIR No.146 dated 28.08.2014 under Sections 15/25/61/85 of the NDPS Act, registered at Police Station Doraha, District Ludhiana.

Prosecution version is that the petitioner was arrested on 28.08.2014 and the alleged recovery of 55 bags each containing 40 kilograms of poppy husk was effected.

The challan in the present case was presented on 23.02.2015.

It so transpires that the petitioner filed an application under Section 167(2) Cr.P.C. seeking the benefit of regular bail on the ground that an incomplete challan has been presented since the report of chemical examiner has not yet been received. Such application has been declined vide order dated 10.04.2015 by the trial Court at Annexure P-3. Counsel appearing for the petitioner would vehemently contend that the challan

presented by the Investigating Agency was incomplete and as such, upon completion of 180 days subsequent to arrest an indefeasible right had come to vest in favour of the petitioner for grant of bail under Section 167(2) Cr.P.C.

Having heard counsel for the petitioner, this Court is of the considered view that the prayer made in the instant petition cannot be accepted.

A similar contention and argument was raised before a coordinate Bench in **CRM No.M-18261 of 2014 titled as Buta Singh @ Makhan Singh v. State of Punjab** decided on 29.08.2014 and which was rejected in terms of the following observations:

“As per the prosecution, the petitioner was found in possession of 175 Kgs of poppy husk which was recovered on 18.07.2012 from a Scorpio vehicle driven by Ginder Singh and the petitioner sitting by his side.

Learned counsel for the petitioner submits that as at the time of presentation of the challan, the police did not attach the report of the Forensic Science Laboratory, the challan presented by the police cannot be said to be complete. Thus, the petitioner was entitled to the concession of bail under Section 167(2) Cr.P.C.

Learned State counsel has opposed the prayer made on behalf of the petitioner.

*Having heard learned counsel for the parties, this Court is of the considered view that merely because the report of the Forensic Science Laboratory was not appended with the copy of the challan, is no ground to hold that the challan itself was incomplete. A Full Bench of this Court in **State of Haryana Vs. Mehal Singh and others, 1978 Punjab Law Reporter, 480** has held that failure to append the documents or the statements under Section 161 Cr.P.C. with the challan was no ground to*

hold that the challan presented by the police was incomplete.”

Prayer made in the present petition seeking benefit of bail by virtue of the default provision under Section 167(2) is rejected in terms of reasoning furnished in **Buta Singh's case (supra)** and reproduced herein above.

Petition stands dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

17.07.2015
harjeet