

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-25624 of 2015 (O&M)
Date of decision: December 18, 2015

Mukhtiar Singh alias Tara

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Veneet Sharma, Advocate
for the petitioner.

Mr.Simsi Dhir Malhotra, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 439 Cr.P.C. read with Section 167(2) Cr.P.C. read with Section 36-A(C) of NDPS Act read with Section 482 Cr.P.C. for grant of regular bail in case FIR No.214 dated 15.09.2014 under Sections 411, 414 IPC, Section 21 and 22 of the NDPS Act, Section 3 of the Indian Passport Act, 1920 and section 14 of the Foreigners Act, 1946, registered at Police Station Gharinda, District Amritsar Rural.

Notice of motion was issued and learned State counsel appeared and contested the petition.

At the time of arguments, learned counsel for the petitioner argued that he is contesting this petition only under Section 167(2)

Cr.P.C. for grant of regular bail. He has not pressed the relief of regular bail on merits.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that it is admitted case that it is case of commercial quantity and the period of presentation of challan is 180 days. It is admitted at the time of arguments that before the expiry of period for presentation of challan, an application has been filed for extension of time for presentation of challan, which was allowed by the trial Court. The application under Section 167(2) Cr.P.C. was filed after filing of the application for extension of time. Learned counsel for the petitioner, at the time of arguments only argued that the application is given by the Investigating Officer and the Public Prosecutor has not applied his mind and simply forwarded the same and does not mentioned in the application regarding progress in the investigation. I have gone through the vernacular of the application Ex.P5. Learned Addl. Public Prosecutor has not forwarded the application of the Investigating Officer simply in this case. He has given his report on the application by stating that the involvement of other smugglers in the case is yet to be investigated and report of chemical examiner is yet to be received, which shows that learned Addl. Public Prosecutor has mentioned the stage of the investigation and necessity for extension of time. As the report of the chemical examiner is necessary for presentation of challan to know the contents of the incriminating substance recovered from the

accused, therefore, the extension has rightly been applied on the basis of the report of learned Addl. PP. In no way, it can be held that learned Addl. PP has not applied his own mind on the facts.

Learned Addl. Sessions Judge, Amritsar while granting the extension has discussed all these facts and the order passed by learned trial Court granting extension of time for presentation of challan, which is detailed one and has been passed after issuance of the notice to the accused, cannot be held as not as per law.

From the above discussion, I find that the application under Section 167(2) Cr.P.C. has been given by the accused after filing of the application for extension of time for presentation of challan, which has been accepted by the Court. So, the present petitioner is not entitled to bail under Section 167(2) Cr.P.C.

Therefore, finding no merit in the present petition, the same is dismissed.

December 18, 2015
Vgulati

(INDERJIT SINGH)
JUDGE