

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M No.28990 of 2015

Date of Decision:-07.09.2015

Amarjit Singh @ Kala @ Mama.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Veneet Sharma, Advocate for the Petitioner.

Mr. K.S. Sidhu, DAG Punjab.

JASWANT SINGH, J (ORAL)

Prayer is for grant of bail under Section 167(2) Cr.PC on behalf of the Petitioner-Amarjit Singh @ Kala @ Mama in case FIR No.3 dated 07.01.2015 for offences punishable under Sections 21 & 29 of the Narcotics Drugs and Psychotropic Substances Act and Section 25 of the Arms Act registered with Police Station Dhilwan, District Kapurthala.

As per the allegations, the petitioner was apprehended on 07.01.2015 with possession of 500 grams of Heroine and unlicensed Pistol along with 32 live Bullets.

It is not in dispute that the challan within 180 days was not presented and the application filed before the trial Court seeking bail by default under Section 167(2) Cr.PC was got dismissed as withdrawn.

Subsequently, another application for default bail under Section

167(2) Cr.PC on the ground that the challan has been presented on 6.7.2015 without appending the Chemical Examiner Report and, therefore, being an incomplete challan, entitle the petitioner for release on bail, the said application was dismissed by learned Judge, Special Court vide order dated 5.8.2015 (P-2) by relying upon judgment passed by this Court holding that the challan could be presented without the report of Chemical Examiner and thus would not constitute a basis for release under Section 167(2) Cr.PC being an incomplete challan. Hence the present petition seeking bail by default.

This Court after hearing Counsel for the parties is not inclined to go into the question whether the challan presented without the Chemical Examiner Report would be an incomplete challan. However, at the time of hearing learned State Counsel on instructions from ASI Jagdish Singh concedes that the Chemical Examiner Report is still awaited and, therefore, claim for interim bail till the receipt of the Chemical Examiner Report would be justified.

In view of the aforesaid, the petition is partly allowed and the Illaqa Magistrate/CJM, Kapurthala is directed to release the petitioner on interim bail to its satisfaction till the receipt of the report of the Chemical Examiner, subject to his furnishing heavy sureties. Petitioner shall also file his undertaking that on receipt of the report against him, he will immediately surrender before the same court. The investigating agency shall also take steps, if required to take the petitioner in judicial custody.

Disposed of in the above terms.

(JASWANT SINGH)
JUDGE

September 07, 2015
Vinay