

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-30174 of 2015

Date of decision : October 14, 2015

Sayed Ali Hussain @ Sajid Ali Hussain

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Kushaldeep S. Sandhu, Advocate, for the petitioner

Mr. C.S.Brar, DAG, Punjab

Fateh Deep Singh, J. (Oral)

In this petition under section 439 Cr.P.C. petitioner Sayed Ali Hussain who is an accused under trial in case bearing FIR No. 31 dated 9.2.2014 under section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 for being in illegal possession of commercial quantity of poppy husk has sought bail under the provisions of section 167(2) of the Cr.P.C. on the grounds that challan has not been presented within the time nor the application seeking extension of the same was moved well before the expiry date.

Heard.

It is the admitted stand that it was on 9.2.2014, the accused was apprehended by the police and was produced before the court for the first time on 10.2.2014. First application for extension of time was moved and allowed and thereafter another application was moved on 9.10.2014 for detention of accused beyond the period of 240 days for 60 days and thus till the moving of the second application for extension of time, 240 days was to expire after 9.10.2014 when the present application under section 36A(4) of NDPS Act has been moved on 9.10.2014 itself for which notice was also issued to the accused and therefore, 240 days period has not lapsed by that time. Though the contentions of the counsel for the petitioner that the same had expired on 8.10.2014 are untenable as it is from the first date the accused was produced for remand before the court, the period is to be counted and though it is indefeasible right but since the application was moved well before the expiry of the period and there are justifiable grounds for the extension in view of law laid down in **2010(1) RCR (Cri) 942 Sanjay Kumar Kedia vs Intelligence Officer NCB and ors.** and thus there is total adherence to the provisions of law and 60 days period beyond 240 days had been granted to by way of extension. The mere fact that the learned court has not disposed off this bail application within this period, the prosecution cannot suffer on that score due to fault of the court. The challan has already been submitted and trial is almost at the fag end, no case

for grant of bail is made out. The same as such in view of commercial quantity of contraband having been recovered stand dismissed.

October 14, 2015

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**(Fateh Deep Singh)
Judge**