

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

C.R.M-M No.30463-2015

Date of Decision : 14.09.2015

Parkash Singh @ Badal

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Baljinder Singh Sra, Advocate
for the petitioner.

Mr. Ashish Sanghi, DAG, Punjab.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This petition has been filed under Section 482 read with Section 439 and 167 (2) Cr.P.C. for grant of regular bail in case bearing FIR No.314 dated 07.11.2014 registered under Sections 21 of NDPS Act and Section 66F of Information Technology Act, 2000 and Section 14 of Foreigners Act, 1946 at Police Station Ferozepur.

Learned counsel for the petitioner has argued that the petitioner should be released under Section 167 (2) Cr.P.C. and for declaring the order dated 30.05.2015 to be illegal. On 03.11.2014 the Commandant BSF recovered 22 packets of contraband (suspected heroin) and informed the SHO, Police Station Ferozepur, through a letter who registered FIR on 07.11.2014 against un-known persons. The petitioner was arrested on 22.11.2014 and was presented before the Illaqa Magistrate on 23.11.2014.

As per the learned counsel for the petitioner 180 days expired on 22.05.2015 and therefore, the petitioner became entitled to be released under Section 167 (2) on 23.05.2015. The petitioner moved the application on 25.05.2015 on which notice was issued for 27.05.2015. On 27.05.2015 the SHO appeared and stated that police report has not been filed. Thereafter he moved an application for extension on 27.05.2015. In view of that extension application the trial Court dismissed the application for bail on 30.05.2015.

Learned counsel for the petitioner has argued that on 181st day, an indefeasible right had accrued in favour of the petitioner and on that date, no order was passed by the trial Court extending the period of custody. He has relied upon *Mohd. Dilshad vs State of Union Territory, Chandigarh, CRM-M No.38823 of 2012*, decided on 18.02.2013.

Learned Deputy Advocate General on instructions from ASI Lakhwinder Singh has not disputed the applicability of Section 167 (2) Cr.P.C. to the present case but has argued that against the order declining bail only revision would lie and not a petition under Section 482 Cr.P.C.

To my mind this would not come in the way of giving substantial justice once it is not disputed Section 167 (2) Cr.P.C. would be applicable to that case.

In the present case 180 days were completed on 22.05.2015. Thus in the absence of any application for extension of time, an indefeasible right to bail accrued to the petitioner on 23.05.2015.

In the circumstances, without expressing any opinion on merits of the case, the petition is allowed. Bail to the satisfaction of trial Court/Duty Magistrate, Ferozepur.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

September 14, 2015
Pooja Sharma-I

(AJAY TEWARI)
JUDGE