

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No. 3387 of 2015 (O&M)

Date of Decision : 12.02.2015

Hardev Singh alias Rebbo

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.V.K.Jindal, Advocate
for the petitioner.

Mr.Deepak Garg, AAG, Punjab..

- i. Whether Reporters of local papers may be allowed to see the judgment?
- ii. To be referred to the Reporters or not?
- iii. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This is a petition for regular bail filed in case bearing FIR No. 122 dated 10.06.2014, under Section 21/61/85 of the NDPS Act, registered at Police Station Maqsudan. Jalandhar and for quashing of orders of extension passed under Section 36-A(4) NDPS Act dated 03.01.2015.

The argument of learned counsel for the petitioner is that as per the FIR 240 grams of heroin was recovered from the petitioner which is non-commercial quantity and actually the petitioner was entitled to bail if the challan was not filed within 60 days. However, at that time the petitioner did not realise that he had a right for bail after 60 days and he only moved an application for bail on the 181st day. On that date an application for extension was pending and the order thereon was passed after 200 days.

In these circumstances he states that he is entitled to bail. Learned counsel

has relied upon **Mohd. Dilshad vs State of Union Territory, Chandigarh, CRM-M No. 38823 of 2012** decided on 18.02.2013 in which it was held as follows:-

“ The argument raised by learned counsel for the petitioner is that the petitioner had undergone imprisonment for 180 days on 29.10.2012 and the fact that thereafter subsequent extension of time for investigation was granted on 02.11.2012 or the fact that challan was filed on 31.12.2012, would not defeat the right of the petitioner to bail. In this connection he has relied upon a decision of the Hon'ble Supreme Court in **Union of India v. Thamisharasi and others** reported as 1995(4) SCC 190 as well as a Full Bench Judgment of this Court in **Janta Singh v. State of Punjab**, reported as **1996(1) RCR(Criminal) 1** and a judgment of the Single Bench of this Court in **Rakesh Kumar and another v. State of Punjab**, reported as 2011(3) RCR(Criminal) 297.”

Learned AAG has not been able to deny the fact that on the 181st day the petitioner filed an application for bail and there was no order of extension.

In these circumstances I am of the considered opinion that the facts of this case are covered by the decision aforesaid. Consequently the petition is allowed. Let the petitioner be released on bail to the satisfaction of the trial Court.

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

(AJAY TEWARI)
JUDGE

February 12, 2015
sunita