

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No. 34161 of 2015
Date of decision:-30.11.2015

Paramjit Kaur @ Rani

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. B.S Kathuria, Advocate, for the petitioner.

Mr. Ritu Punj, Addl.A.G., Punjab.

DAYA CHAUDHARY, J. (ORAL)

This petition has been filed under Section 167(2) Cr.P.C for grant of regular bail to the petitioner in case FIR No.15 dated 07.02.2015 registered under Section 21/61/85 of NDPS Act at Police Station Chabbewal, District Hoshiarpur.

Learned counsel for the petitioner submits that the FIR was registered on 07.02.2015 and period of 180 days expired on 05.08.2015. An application was moved by the prosecution on 01.08.2015 for extension of time for presentation of challan, which was allowed on 07.08.2015 i.e. after expiry of period of 180 days and thus an infeasible right has accrued to the petitioner for being released on bail but the bail application of the petitioner has been dismissed by the lower Court.

Learned State counsel has not disputed the fact that period of 180 days from the date of arrest of the petitioner expired on 05.08.2015 and also the fact that application for extension of time for presentation of challan was moved by the prosecution on

01.08.2015, which was allowed on 07.08.2015.

Heard arguments of learned counsel for the petitioner and have also perused the documents on the file.

Admittedly, the petitioner was arrested on the date of lodging of FIR i.e. on 07.02.2015 and period of 180 days expired on 05.08.2015. Though the application for extension of time for presentation of challan was moved by the prosecution on 01.08.2015 i.e before expiry of period of 180 days but the same was allowed on 07.08.2015 i.e. after expiry of period of 180 days. As per provisions of Section 167 (2) of the Code, challan is required to be presented within a period of 90 days or 180 days as the case may be. In the present case, the challan was not presented within a period of 180 days and as such an indefeasible right has accrued to the petitioner on expiry of period of 180 days. No doubt application for extension of time was moved before expiry of period of 180 days but the same was allowed after expiry of period of 180 days i.e. on 7.8.2015 and as such, the petitioner became entitled for bail as per provisions of Section 167 (2) Cr.P.C and she cannot be deprived of the said right as it is her statutory right, as has been provided under Section 167 (2) Cr.P.C. The prosecution agency cannot take advantage of the lapse, if any on the part of the investigating agency.

Accordingly, this petition is allowed and the petitioner namely, Paramjit Kaur @ Rani is directed to be released on regular bail as per provisions of Section 167 (2) Cr.P.C to the satisfaction of the trial Court.

30.11.2015

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**(DAYA CHAUDHARY)
JUDGE**