

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-M-38701-2014

Date of decision : 02.02.2015

Paramjit Singh @ Pamma

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Puneet Kumar Bansal, Advocate
for the petitioner.

Mr.Gurinderjit Singh, DAG, Punjab.

REKHA MITTAL, J.

The petitioner prays for grant of bail under Section 167 (2) of the Code of Criminal Procedure (for brevity 'Cr.P.C.') in FIR No.54 dated 11.02.2014 registered in Police Station Sadar Ferozepur for offence punishable under Section 15/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity 'Act').

Counsel for the petitioner contends that the petitioner was arrested on 11.02.2014 and he filed application under Section 167(2) Cr.P.C. on 28.08.2014 after expiry of 180 days from the date of his arrest. The police submitted incomplete report (challan) on 03.05.2014. The report of the Forensic Science Laboratory in regard to analysis of contents of sample was filed on 14.10.2014. It is argued that as the report under Section 173(2) Cr.P.C. was filed without copy of the analysis report by the laboratory, the petitioner is entitled to be released on bail under Section 167(2) Cr.P.C.

Counsel representing the State of Punjab, on the other hand, has submitted that on 11.02.2014, Balwinder Singh @ Binder son of Veer Singh and Paramjit Singh @ Pamma son of Veer Singh (petitioner herein) were apprehended while they were travelling in maruti car bearing No.DL-8CC-3916 driven by Balwinder Singh @ Binder. On search of said car, 4 bags of poppy husk weighing 40 kgs. each were recovered and the accused failed to produce any licence to keep the suspect material in their possession. The challan was presented in the Court and the report in regard to analysis of the samples was received which exhibited positive results of the samples to prove the alleged recovery to be poppy husk defined under Section 2 (xxviii) of the Act. It is further argued that as per the notification issued in the year 2001 whereby the small quantity and commercial quantity of Narcotic Drugs and Psychotropic Substances have been specified the poppy straw mentioned at serial No.110 does not have any commercial name or other non proprietary name as column No.3 & 4 against serial No.110 are lying blank. It is further submitted that as the poppy straw can be easily identified by the investigating officer without analysis report of the samples sent to the laboratory, the petitioner cannot be allowed benefit of bail merely because the report of analysis was received subsequent to filing of the challan / application for bail when otherwise obtaining of such reports is beyond control of the investigating officer and invariably the reports are delayed due to heavy work load with the concerned laboratory.

I have heard counsel for the parties and perused the records.

In the present case, the investigating agency did not seek extension of time under Section 36A(4) of the Act for completion of

investigation and rather presented the challan within 180 days. As per the allegations, 160 kgs. of poppy husk was recovered from the petitioner and his brother while maruti car bearing No.DL-8CC-3916 was intercepted by the police party headed by an Inspector of the police. The result of analysis of samples drawn from the incriminating material came to be positive in view of the report submitted by the concerned laboratory. Once the challan has been presented in the Court within 180 days, the petitioner could claim regular bail on the basis of materials forming part of report under Section 173(2) Cr.P.C. and bail may be granted to him on the ground that there is no report of chemical examiner. So far as plea of the petitioner to get the bail on technical ground is concerned, he is not entitled to get benefit thereof.

Dismissed.

(REKHA MITTAL)
JUDGE

February 02, 2015.

DK