

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

**CRM No. M-38666 of 2015
Date of decision: 26.11.2015**

Balveer @ Balbir Singh @ Kaku **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

- 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?**

Present: Mr. Naveen Bawa, Advocate for the petitioner.

Mr. P.S. Paul, DAG, Punjab.

NARESH KUMAR SANGHI, J.(ORAL)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of regular bail to the petitioner, Balveer @ Balbir Singh @ Kaku, who has been booked for having committed the offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act') in a case arising out of FIR No. 16, dated 03.04.2015, registered at Police Station, City-2, Abohar, District Fazilka.

Learned counsel contends that as per prosecution case, at the time of his arrest on 3.4.2015, petitioner was in possession 6,000 lomotil tablets and 336 capsules Spasmo Proxyvone Plus

and thereafter sent to judicial custody on 4.4.2015. The investigating agency has failed to file the report under Section 173 (2)Cr.P.C., despite the fact that more than 7 months have expired after the arrest of the petitioner. He further pointed out that an application was presented by learned Public Prosecutor on 25.9.2015 before Learned Judge, Special Court, Fazilka for extension of time as enshrined under Section 36A(4) of the NDPS Act, whereby the order Annexure P-3 was passed and the investigating agency was granted three months' more time in addition to 180 days for filing the report under Section 173 (2) Cr.P.C., without hearing the petitioner which is contrary to the judgment passed by Hon'ble the Supreme Court in the matter of ***Sanjay Kumar Kedia @ Sanjay Kedia Versus Intelligence Officer, Narcotic Control Bureau and Anr. 2010(1)RCR (Criminal)942.***

Learned counsel for the State on instructions from ASI Manjit Singh, Police Station, City-2, Abohar, District Fazilka has fairly conceded that still the charge sheet (report under Section 173 (2) Cr.P.C.) has not been presented. He further fairly submitted that the application presented by the Learned Public Prosecutor for extension of time was decided vide Annexure P-7 without affording an opportunity of hearing to the petitioner.

After hearing the counsel for the parties and going

through the ratio of the judgment delivered by Hon'ble the Supreme Court in the matter of ***Sanjay Kumar Kedia @ Sanjay Kedia*** (supra), the present petition is accepted and the petitioner is directed to be released on bail during the pendency of the investigation/trial of the present case, subject to his furnishing bail bonds to the satisfaction of Learned Judge, Special Court (Fazilka).

November 26, 2015
Poonam (II)

(NARESH KUMAR SANGHI)
JUDGE