

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-4111 of 2015

Date of Decision: February 21, 2015

Karamvir Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Ms. Surinder Kaur, Advocate
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

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M.M.S. BEDI, J. (ORAL)

For having been found in possession of 115 grams of intoxicating powder, the petitioner was arrested on June 12, 2014. 180 days in custody were to expire on December 10, 2014 but an application under Section 36 A (4) of the NDPS Act was filed by prosecution on December 8, 2014. Since the period of 180 days was to expire on December 10, 2014, it was incumbent for the Court to expeditiously decide the application preferably prior to 180 days. It appears that the said application was decided on December 20, 2014 alongwith the application under Section 167

(2) Cr.P.C. filed by the petitioner for bail on December 11, 2014, when the period of 180 days had expired. No doubt, the provisions of Section 36 A (4) of the NDPS Act are meant to defeat the rights of the accused by giving a statutory right to the State to seek extension for detention of an accused in judicial custody but the said application was required to be decided following the principles in **Sanjay Kumar Kedia @ Sanjay Kedia Vs. Intelligence Officer, Narcotic Control Bureau and another**, JT 2009 (15) SC 463. It was held in **Union of India Vs. Nirala Yadav**, 2013 (2) RCR (Crl.) 1005 that it is mandatory for a Court to decide the application under Section 167 (2) Cr.P.C. expeditiously i.e. on the same day when it is filed. The Court in the present case had deferred the adjudication of both the applications beyond a period of 180 days.

In the present case, taking into consideration the fact that no report regarding 115 grams of intoxicating powder having yet been received, the petitioner can be granted the concession of bail.

Petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/ surety bonds to the satisfaction of the trial Court.

February 21, 2015
sanjay

(M.M.S.BEDI)
JUDGE