

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

**CRM-M No.41591 of 2014
DATE OF DECISION : 28.01.2015**

Parkash Singh @ Pash

..... Petitioner

Vs.

State of Punjab

.....Respondent

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

Present :-Mr.P.B.S.Sidhu, Advocate
for the petitioner.

Mr.C.S.Brar, DAG, Punjab.

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

For having been found in possession of 80 kgs of poppy husk contained in three bags being carried in a car alongwith co-accused Jograj, the petitioner has been in custody w.e.f. 19.05.2014. Final report under Section 173(2) Cr.P.C. was presented on 21.10.2014 without chemical examiner's report. The period of 180 expired on 18.11.2014. It is an admitted fact that report of the chemical examiner prepared on 28.12.2014 has been sent to the Court and now forms part of the record.

Learned counsel for the petitioner submits that challan having been presented without the report of the chemical examiner, which was produced in the Court after expiry of period of 180 days, the petitioner could have been granted concession of bail under Section 167(2) Cr.P.C.

Without expression of opinion on merits, taking into consideration the fact that the most material document establishing the culpability of the petitioner, the report of the Forensic Science Laboratory having been produced after the expiry of 180 days, the petitioner can be granted the concession of bail.

In the present case, no application under Section 36 (A) (4) of NDPS Act was filed by the State agency seeking extension for presentation of challan for detaining the petitioner beyond period of 180 days. Even otherwise recovery of 80 kgs of poppy husk from two persons will raise a debatable issue during trial regarding the contraband being a commercial quantity so far as individual petitioner is concerned.

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 subject to the condition that he will not commit the similar offence of which he is accused of, during pendency of the case.

28.01.2015

Pooja Sharma-I

(M.M.S.BEDI)
JUDGE