

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

**CRM-M No.44134 of 2014
Date of decision: 13.02.2015**

Suman and othersPetitioners

Versus

State of HaryanaRespondent

2) CRM-M No.2456 of 2015

SonuPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE K.C. PURI.

Present: Mr. Sarfraj Hussain, Advocate
for the petitioner (s).

Mr. P.P. Chahar, DAG, Haryana.

K.C. PURI J. (Oral)

Vide this order, I intend to dispose of Criminal
Miscellaneous No. M-44134 of 2014, titled as "Suman and others
Vs. State of Haryana" and Criminal Miscellaneous No.M-2456 of
2015, titled as "Sonu Vs. State of Haryana".

Petitioners are seeking regular bail by invoking the
provisions of Section 167 (2) of the Criminal Procedure Code,
1973.

Report of the trial Court has been received in which it is mentioned that accused-Sonu, Pawan and Joginder @ Nanha, have been arrested in this case on 12.08.2014 whereas accused-Suman has been arrested on 13.08.2014. All the four accused have been produced before the Area Magistrate and accused-Sonu, Pawan and Joginder, have been remanded to police custody till 14.08.2014, whereas accused-Suman was remanded to judicial custody. Thereafter, accused-Sonu, Pawan and Joginder were also remanded to judicial custody on 14.08.2014.

All the four accused applied for bail by invoking the provisions of Section 167(2) of the Code of Criminal Procedure, 1973 on 18.11.2014. The said application was dismissed on 19.11.2014.

Learned counsel for the petitioners has submitted that valuable right has accrued in favour of the petitioners. Learned counsel for the petitioner has relied upon the authority ***“Uday Mohanlal Acharya Vs. State of Maharashtra”***, reported in **2001(2) CLJ (Criminal) 11**. The relevant provisions of the said judgment has been mentioned in Para 27, which is reproduced as under:-

“It is true that the right of an accused to be released on bail for default in submission of challan is a valuable and indefeasible right, but by the time the Court is considering the exercise of the said right if a challan is filed then the question of grant of bail has to

be considered only with reference to merits of the case under the provisions of the Code relating to grant of bail after filing of the challan which view is consistent with the view expressed by different Constitution Benches of this Court in several decades in connection with the issuance of writ of habeas corpus as well as for grant of bail.”

Learned counsel for the petitioner has also relied upon authority, “**Satnam Singh Vs. State of Punjab**” 2013(2) CrI. CC 358.

The challan was presented on the same day on which the application was moved, but the Court cannot be hyper-technical in granting the bail. Moreover, in Uday Mohanlal Acharya's case (*supra*), Para 27 clearly shows that in case the challan has been presented, the right of the accused does not survive. So far as the authority Satnam Singh Vs. State of Punjab (*supra*), is concerned, the ratio of the judgment is that during the pendency of the bail application, if challan is presented, that does not forfeit the right of the accused. The fact remains that challan has been presented on the same day, so no ground for invoking the provisions of Section 167(2) is made out.

Dismissed.

13.02.2015
yakub

(K.C. PURI)
JUDGE