

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

Cr.Misc. M 470 of 2015

Date of decision:- 12.2.2015

Gaurav Arora

Petitioner

vs.

State of Punjab

Respondent

Present: Mr.Achin Gupta, Advocate.
Mr. CS Brar, DAG, Punjab

M.M.S.BEDI,J.

The petitioner was arrested on 6.6.2014 on the allegation that 400 grams of heroin was recovered from him. 180 days in custody expired on 3.12.2014. The prosecution agency moved an application u/s 36-A(4), NDPS Act on 29.11.2014. The Special Court was required to decide the said application prior to the expiry of 180 days after giving a notice to the accused as per the judgment in **Sanjay Kumar Kedia @ Sanjay Kedia vs/ Intelligence Officer, Narcotic Control Bureau & Anr, JT 2009(15) 463**. The Special court issued notice for 5.12.2014 instead of deciding the application prior to 3.12.2014. The petitioner enforced his right u/s 167(2) Cr.P.C. by moving an application on 3.12.2014. The said application as per **Union of India vs. Nirala Yadav, 2013(2) RCR (Cri.) 1005** was required to be decided expeditiously i.e. on the same day. Neither application u/s 36-A(4) NDPS Act was decided on 3.12.2014 nor application u/s 167(2) Cr.P.C. was decided by 3.12.2014. The extension, however, was granted for 120 days on 8.12.2014 when an indefeasible right had accrued to the petitioner for grant of bail. It is a case where the rights of the prosecution as well as of the accused u/s 36-A (4) NDPS Act and u/s 167(2) Cr.P.C. stand

defeated for the apparent inability of the trial court to decide the rights in time. This court, in the similar circumstances, had granted bail to Jagseer Singh. (**Jagsser Singh vs. State of Punjab**) 2013(3) Law Herald 2685).

Without expression of any opinion on merits of the case, taking into consideration the above circumstances, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/ surety bonds to the satisfaction of CJM, Faridkot.

February 12 , 2015
TSM

(**M.M.S.BEDI**)
JUDGE