

THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

CRM-M-5422 of 2015

Decided on : 23.02.2015

Santa Singh alias Santu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTIC KULDIP SINGH

Present : Mr.Ravi Malhotra , Advocate
for the petitioner.
Mr.N.K.Chopra, DAG, Punjab.

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Kuldip Singh , J. (Oral)

Allegations against the petitioner are that he along with co-accused was coming on foot when he was confronted by the police party. The petitioner ran away from the spot whereas co-accused namely, Dalbir Singh @ Kala was arrested and 240 gms of intoxicated powder was recovered from him. Thereafter, P.O. proceedings were initiated against the present petitioner but he has not been declared PO till date. In this case, present petitioner was arrested on 28.02.2014 i.e. after period of 180 days.

Learned State counsel on instructions ASI Somnath conceded that challan has not been presented so far and the same is ready, to be presented within few days.

Learned Judge Special Court (Under NDPS Act), Jalandhar, dismissed the application for grant of regular bail under Section 167 (2) Cr.P.C. on the ground that in this case the Court has earlier taken cognizance against the co-accused and his arrest cannot be termed as

remand under Section 167(2), Cr.P.C. Though in the reasons of such remand, police has mentioned that the investigation in this case is still going on.

The mere fact that the petitioner was accompanying co-accused and such intoxicated powder was recovered from the co-accused, does not mean that the present petitioner was involved in the offence. After this, police was investigating the case to find out whether the petitioner is involved in the crime or not. Therefore, after his arrest, remand of the petitioner was obtained for completing the investigation and now the investigation is complete and the challan is yet to be presented. Therefore, the view taken by the Judge, Special Court, Jalandhar does not depicts the correct position of law. Since the period of 180 days has already expired. Therefore, the petitioner is entitled for grant of regular bail under Section 167 (2), Cr.P.C. In this case no recovery has been effected from the petitioner.

Accordingly, application is allowed and the petitioner is ordered to be released on regular bail on his furnishing personal bond in the sum of Rs. 25,000/- with one surety in the like amount to the satisfaction of the learned Chief Judicial Magistrate/Duty Magistrate, Jalandhar.

Application is accordingly disposed of.

[Kuldip Singh]
Judge

23.02.2015
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