

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

CRM-M-No. 5733 of 2015

Date of decision: September 22, 2015

Mohammad Ramzan

----Petitioner(s)

V/s

State of Punjab

-----Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Akashdeep Singh, Advocate for the petitioner.

Mr. Gurinderjit Singh, Deputy Advocate General, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer made in the present petition filed under Section 439 and 167(2) of the Code of Criminal Procedure is for the grant of regular bail to the petitioner in case FIR No. 67, dated 03.06.2014 for offence punishable under Sections 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity "*NDPS Act*"), registered at Police Station Bhogpur, District Jalandhar.

The allegation against the petitioner is that he was apprehended with 10 Kgs. of *charas* on 03.06.2014. The police party over-powered the petitioner and on inquiry, he disclosed his name as Mohammad Ramzan son of Gulam Mohmmad, caste Daar, resident of village Qazigund, Police Station Kund Satargaw, Distt. Kulsham,

Jammu & Kashmir. As petitioner had in his possession a plastic bag, it was suspected to be containing some contraband. Accordingly, the petitioner was offered as to whether he wanted to get his search and search of plastic bag to be conducted through him or through some Gazetted Officer or a Magistrate because he had a legal right to do so. Petitioner replied that he wanted to get his search conducted through some Gazetted Officer or a Magistrate. Accordingly, DSP-D Jalandhar, namely, Ashwini Kumar was requested to reach the spot and to conduct search of the petitioner. The DSP (D) inquired about the antecedents from the apprehended petitioner and after giving his introduction, the plastic bag which was otherwise tied with a rope, opened and checked, whereupon *charas* was recovered. The same was weighed with weighing scale lying in investigating bag, it was turned out to be 10 Kgs.

Learned counsel for the petitioner contends that the petitioner was apprehended on 03.06.2014 and produced before the Area Magistrate on 04.06.2014 and in this manner, 180 days of custody was to expire after 30.11.2014. The prosecution has moved an application for extension of time on 28.11.2014, wherein it was submitted that challan cannot be presented in the Court without chemical report, as the charges cannot be established without the chemical report. He further submits that for the reason best known to the prosecution agency, the agency choose to present the challan on the same day i.e. 28.11.2014 without the chemical examiner's report.

Learned counsel for the petitioner also submits that on 01.12.2014, after completion of 180 days, petitioner moved an

application under Section 167(2) Cr.P.C. for grant of bail on the ground that since the challan was presented on 28.11.2014, without the chemical examiner's report is incomplete and thus a indefeasible right has been accrued in favour of the petitioner for grant of bail, but the learned Special Court, Jalandhar, has dismissed his application.

In support of his contention, learned counsel for the petitioner relies upon various judgments of this Court *i.e. in CRM-M 33931 of 2014* titled as **“Ram Kishan Vs. State of Punjab”** decided on 13.10.2014, *CRM-M 41591 of 2014* titled as **“Parkash Singh @ Pash Vs. State of Punjab”**, decided on 28.01.2015, *CRM-M 16714 of 2010* titled as **“Karam Singh Vs. State of Punjab”**, decided on 13.08.2010, *CRM-M-17793 of 2010* titled as **“Manmohan Singh @ Goldi Vs. State of Punjab”**, decided on 13.08.2010 and *CRM-M-15041 of 2014* titled as **“Sukhchain Singh @ Chaina Vs. State of Punjab”**, decided on 18.07.2014 to contends that in such circumstances, the petitioner is entitled for grant of bail.

On the other hand, learned counsel for the State submits that though initially the chemical examiner's report was not submitted with the challan, but chemical examiner's report has been submitted to the Court on 29.12.2014 and same reads as under:-

*“Report of Chemical Examiner Punjab, Government, Kharar.
(Admissible u/s 293 CR.P.C. As amended in 1978)*

xxxx	xxxx	xxxxx
xxxx	xxxx	xxxxx
xxxx	xxxx	xxxxx

Report:- The contents of the parcel under reference has been analysed by Chemical analysis. On the basis of analysis, the content of the parcel has been identified as charas.

Tetrahydrocannabinol, Cystolithic hair and 29.50% resin has been found present in the content of the parcel.”

I have heard learned counsel for the parties and have gone through the case file.

This Court has dealt with the aforesaid contravention in detail in CRR No. 2092 of 2014, titled as **Sukhwinder Kumar @ Sukha Vs. State of Punjab**, decided on 13.05.2015 and has observed as under:-

*“In CRM-M-6365-2015 and CRM-M-7731-2015, the prosecution has taken a plea that challan could not be presented for want of reports of chemical examiner. However, learned State counsel has failed to show any provision as to why the challan without the reports of chemical examiner could not be presented to the trial Court. In **Mehal Singh's case (supra)**¹ and **Abdul Azeez P.V.'s case (supra)**², it has been held that filing of challan without report of the forensic science/chemical examiner cannot be treated as incomplete filing of challan. The investigating agency can submit other evidence by way of supplementary challan.....”*

Taking into consideration the huge possession of charas, recovered from the petitioner as well as in the light of judgment passed in **Sukhwinder Kumar @ Sukha's case (supra)**, I find no merit in the present petition for grant of regular bail and the same is accordingly dismissed.

September 22, 2015
Anjal

[HARI PAL VERMA]
JUDGE

¹ State of Haryana Vs. Mehal Singh and others, 1978 PLR 480.

² Abdul Azeez P.V. and others Vs. National Investigation Agency, 2015(1) RCR (Criminal), 239.