

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M- 6426 of 2015 (O&M)
Date of decision: April 01 2015

Gurlal Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. D.N. Ganeriwala, Advocate
for the petitioner.

Mr. RPS Sidhu, AAG, Punjab.

Jaspal Singh, J.(Oral)

CRM No. 8205 of 2015

In view of averments made in the application, the same is allowed.

Amended petition is taken on record.

Main Case

Instant petition has been preferred by Gurlal Singh (now confined in District Jail, Sangrur) under Section 439 of the Code of Criminal Procedure (for brevity 'Code') read with Section 36-A (4) of Narcotics Drugs and Psychotropic Substances Act, 1985 (for short 'Act') seeking regular bail to the petitioner in case FIR No. 80 dated July 17, 2014 under Sections 21, 22 and 25 of the Act, registered at Police Station Sardulgarh, District Mansa.

2. As per allegations contained in report under Section 173(2) of the Code, petitioner was arrested in this case on July 17, 2014 for allegedly keeping in his possession 1 Kg intoxicant powder and 500 gms Heroin without any permit or license. After his arrest on July 17, 2014, he was produced before learned

Jurisdictional Magistrate, Mansa on July 18, 2014. As per Section 36-A (4) of the

Act read with Section 167 (2) of the Code, investigation period prescribed under law for submission of report under Section 173(2) of the Code is 180 days, which elapsed on January 13, 2015. However, prosecution moved an application for extension of time for presentation of report under Section 173(2) of the Code on January 08, 2015, which was disposed of vide impugned order dated January 15, 2015 whereby, a period of 45 days was extended for presentation of report under Section 173(2) of the Code from the date of order i.e. January 15, 2015.

3. Here, it would not be out of place to mention that if period is calculated from the date of arrest of petitioner till the date of order of extension of period for presentation of report under Section 173(2) of the Code, the same exceeds more than 180 days. Had it been extended from the date of application moved by investigating agency for extension of period, the position would have been altogether different.

4. Undoubtedly, right for bail enshrined under Section 167(2) of the Code is an indefeasible one and it cannot be said to be extinguished or scuttled down by mere presentation of report under Section 173(2) of the Code, beyond the period prescribed.

5. Adverting to the facts of the case in hand, petitioner is alleged to have been arrested on July 17, 2014 and was produced before learned Magistrate on the next day i.e July 18, 2014. If the period of 180 days from the date of arrest of petitioner is calculated it expires on January 13, 2015. 45 days time was extended by learned trial Court on January 15, 2015, meaning thereby, that there was no extension order on January 14, 2015. Extension of period subsequent thereto, cannot scuttle down the indefeasible right accrued to the petitioner on January 14, 2015. Thus, the petitioner is entitled to bail under Section 167(2) of the Code read with Section 36-A (4) of the Act.

6. In the light of what has been discussed above, instant petition is

allowed. Petitioner is ordered to be released on bail to the satisfaction of learned trial Court/Duty Magistrate, Mansa.

April 01, 2015
sham

(JASPAL SINGH)
JUDGE