

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M- 7279 of 2015
Date of Decision: 08.05.2015

Major Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Vaibhav Narang, Advocate
for the petitioner.

Mr. Arshdeep S. Kler, DAG, Punjab.

RAJ MOHAN SINGH, J. (Oral)

Prayer in the petition is for grant of regular bail in terms of Section 167 (2) Cr.P.C in case FIR No.285 dated 26.07.2014, under Section 21 NDPS Act, Police Station City Tarn Taran, District Tarn Taran.

Petitioner was arrested on 26.07.2014. Period of 180 days for filing report under Section 173 Cr.P.C was expired on 21.01.2015. An application for extension of time beyond 180 days was moved on 13.01.2015/14.01.2015 by Additional Public Prosecutor. The reason mentioned in the application was stated to be pending report of Chemical Examiner from the Chemical Analyst. First application for grant of extension was allowed by Court on 16.01.2015. Thereafter, on 06.04.2015, second application was also moved by Additional Public Prosecutor on the same cause of action i.e for want of report of Chemical analysis. This

application was also allowed by Court vide order dated

10.04.2015, thereby extending the period by three months. Learned counsel for the petitioner states that the infeasible right of the petitioner in terms of Section 167(2) Cr.P.C cannot be defeated in the manner as done in the present case.

Perusal of the application for extension of time reveals that no reasons much less specific reasons were stated as to how the detention of the petitioner could have served any purpose beyond 180 days. In the event of Investigating Agency not obtaining report of Chemical Examiner for filing challan, reasons recorded by the said Court in the order do not specify the conditions as provided under Section 36 (A) (4) of NDPS Act.

Mr. Kler, DAG, Punjab on instructions from ASI Baljinder Singh opposes the grant of bail on the strength of quantity of narcotic substance recovered.

In **Sanjay Kumar Kedia @ Sanjay Kedia Vs. Intelligence Officer, Narcotic Control Bureau and another, 2010 (1) RCR (Criminal) 942**, the Hon'ble Apex Court has held that contingent conditions while granting extension should be complied with. The conditions are:-

(1) A report from Public Prosecutor, (2) which indicates the progress of the investigation and (3) Specifies the compelling reasons for seeking detention of accused beyond the period of 180 days and (4) after notice to the accused.

No such specification and compelling reasons are forthcoming in

plea for want of report of Chemical Examiner.

Report of Chemical Examiner has not been received, the same cannot serve as valid reason for seeking extension and the same also does not serve as valid reason for rejecting the prayer under Section 167 (2) Cr.P.C.

The aforesaid position has been elaborately dealt with in **CRR 1384 of 2015 decided on 04.05.2015.**

Accordingly, petitioner is ordered to be released on bail in terms of Section 167(2) Cr.P.C subject to his furnishing adequate bail bonds to the satisfaction of Special Court, Tarn Taran.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

May 08, 2015
prince

(RAJ MOHAN SINGH)
JUDGE