

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM NO. M-7658 of 2015
DECIDED ON : April 28, 2015

Nizamudeen and another

...Petitioners

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Parshant Vashisth, Advocate,
for the petitioners.

Mr. J.S. Sekhon, AAG, Punjab.

JASPAL SINGH, J. (ORAL)

Instant petition has been filed under Section 439 Cr.P.C read with Section 167(2) Cr.P.C seeking regular bail to the petitioners in case FIR No. 166 dated August 02, 2014 under Section 22 of the Narcotics Drugs & Psychotropic Substances Act, 1985 (for short 'Act'), registered at Police Station Maqsudan, Jalandhar City,

It is an undisputed fact that petitioners were arrested in this case on August 02, 2014 and an application for extension of time under Section 36-A of Act was moved on January 22, 2015 by prosecution i.e on 173rd day meaning thereby, it was presented before the expiry of 180 days statutory period provided for investigation. Another application for extension of time under Section 36-A of Act was moved on February 07, 2015 by prosecution and that application was allowed by learned Judge,

Special Court, Jalandhar and further period of three months was extended/given to the prosecution from the date of filing of said application i.e. January 22, 2015. The period of three months expired on April 22, 2015. It has been fairly conceded by learned State counsel, as per instructions from ASI Manjit Singh that no application for extension has so far been moved before learned Judge, Special Court, Jalandhar for further extension of time.

Due to the non-presentation of challan within the extended period, an indefeasible right stood accrued to the petitioner for bail entitling him to be released under Section 167(2) Cr.P.C. In such a situation, impugned order passed by Judge, Special Court, Jalandhar is not sustainable and deserves to be set aside.

Accordingly, instant petition is allowed and petitioner is ordered to be released on bail to the satisfaction of learned trial Court.

April 28, 2015
sham

(JASPAL SINGH)
JUDGE