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

**CRM-M No.8542 of 2015
Date of Decision: 24.03.2015**

KULWANT SINGH @ NEETU

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. A.P.S. Deol, Senior Advocate with
Mr. H.S. Mavi, Advocate
for the petitioner.

Mr. Arshdeep S. Kler, D.A.G., Punjab.

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

RAJ MOHAN SINGH, J.

Custody certificate filed by learned State counsel is taken on record.

Prayer in this petition is for grant of regular bail under Section 439 Cr.P.C with the aid of Section 167(2) Cr.P.C. and Section 36-A of NDPS Act in case bearing FIR No.153 dated 24.06.2014 under Sections 22/61/84 NDPS Act, Police Station Talwandi Sabo.

Learned Senior counsel for the petitioner states that period of 180 days expired on 21.12.2014. Thereafter, application under

Section 167(2) Cr.P.C. was moved on 22.12.2014. Prosecution had filed application for extension of time on 20.12.2014 which was allowed on 08.01.2015, thereby giving extension of 30 days to complete the investigation.

Learned Senior counsel by making reference to **Hintendra Vishnu Thakur v. State of Maharashtra 1994(3) RCR (Crl.) 156** and **Sayed Mohd. Kazmi v. State, GNCTD and others 2012(4) RCR (Crl.) 857** states that indefeasible right of the accused on the expiry of 180 days cannot be done away with an order of extension passed beyond 180 days as retrospectivity of such order in granting extension cannot be presumed to defeat the statutory right accrued to the accused on expiry of requisite period of 90 days or 180 days as the case may be.

Learned Senior counsel further relies upon decision rendered in **CRM-M No.4219 of 2015** titled as **Arun Kumar and others v. State of Punjab** to contend that the prayer under Section 167(2) Cr.P.C. was not supposed to be deferred by the trial Court till extension is granted, the trial Court cannot act to extinguish the right of an accused, if law so confers upon him.

In view of the above, without advertng to the merits of the case, petitioner is entitled to grant of regular bail in terms of 167(2) Cr.P.C.

Accordingly, this petition is allowed.

Let the petitioner be enlarged on bail, subject to furnishing adequate bail bonds/surety bonds to the satisfaction of Chief Judicial Magistrate, Bathinda.

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

March 24, 2015.

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**(RAJ MOHAN SINGH)
JUDGE**