

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-902 of 2015

.....

Date of decision:16.1.2015

Amarjit Singh

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Ms. Ravinder Kaur Manaise, Advocate for the petitioner.

Mr. S.S. Chandumajra, Deputy Advocate General, Punjab for
the respondent-State.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 167(2)
Cr.P.C. for grant of bail in case FIR No.110 dated 26.10.2014 (Annexure-
P.1) registered for the offences under Sections 15 and 29 of the Narcotic
Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as
'the Act') at Police Station Khuian Sarwar, District Fazilka.

Notice of motion to Advocate General, Punjab.

On the asking of the Court, Mr. S.S. Chandumajra, learned
Deputy Advocate General, Punjab has put in appearance on behalf of the
respondent-State and contested this petition.

I have heard learned counsel for the petitioner and learned
Deputy Advocate General, Punjab appearing for the respondent-State and

have gone through the record.

From the record, I find that first of all in this case as per prosecution version, the recovery is of 50 Kgs. poppy husk, which is non-commercial quantity. The challan was not presented even after expiry of 66 days and the petitioner filed application under Section 167(2) Cr.P.C. before the Judge, Special Court, Fazilka, which has been dismissed vide order dated 2.1.2015.

As this case relates to non-commercial quantity, therefore, as per Section 167(2) Cr.P.C. the period for presentation of challan is 60 days. As per sub-section (4) of Section 36-A of the Act, the time has been enhanced in the case of commercial quantity from 90 days to 180 days. In the present case, the challan has not been presented within 60 days. Otherwise also, it being a non-commercial quantity, the bar of Section 37 of the Act does not apply in this case and the learned Judge, Special Court, Fazilka has wrongly observed that it is case of commercial quantity. More than 50 Kgs. of poppy husk falls in the commercial quantity and not upto 50 Kgs. of poppy husk.

Therefore, keeping in view the facts and circumstances of the present case, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal bond in the sum of ₹35,000/- with one surety in the like amount to the satisfaction of the trial Court/Duty Court.

January 16, 2015.

(Inderjit Singh)
Judge

hsp