

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

CRR No.2619 of 2015

Date of decision: 14th August, 2015

Sanchit Gupta

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. H.S. Brar, Advocate
for the petitioner.

Mr. J.S. Brar, Asstt. Advocate General, Punjab.

FATEH DEEP SINGH, J.

This revision petition in terms of Section 401 Cr.P.C. is directed against the impugned orders dated 04.07.2015 passed by the Court of learned Additional Sessions Judge-cum-Judge, Special Court, SAS Nagar (Mohali) on an application under Section 36(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'the Act') read with Section 167(1) of the Cr.P.C. moved in case got registered by way of FIR No.7 dated 07.01.2015 under Section 22/61/85 of the Act at Police Station Zirakpur, by which impugned findings prosecution has been granted further period of 90 days for further investigation.

Heard Mr. H.S. Brar, Advocate for the petitioner; Mr. J.S. Brar, Asstt. Advocate General, Punjab and on perusal of the records.

It is admitted by the two sides that consequent upon the arrest of the accused he was produced before the Court of learned Judicial Magistrate 1st Class, Dera Bassi on 08.01.2015 and was remanded to police custody since 09.01.2015 and on which date the accused has been sent to judicial custody till 23.01.2015. On 03.07.2015, the Public Prosecutor moved an application under Section 36(A) of the Act for extension of time of investigation for a period of 60 days for completing the investigations regarding which notice was issued to the accused for 04.07.2015.

Appreciating the arguments of the two sides, it is admitted case as per the allegations of the prosecution that the petitioner was alleged to have been found in possession of commercial quantity of contraband comprising of intoxicating syrup, pills, capsules etc. and therefore, case of the petitioner for the purposes of extension of period of detention for investigations is covered under the provisions of Section 36(A) Sub-Section (4) of the Act, which is reproduced as follows:

“36A. Offences triable by Special Courts

... ..

... ..

(4) *In respect of persons accused of an offence punishable under section 19 or section 24 or section 27A or for offences involving commercial quantity the references in sub-section (2) of section 167 of the Code of Criminal Procedure, 1973 (2 of 1974), thereof to "ninety days", where they occur, shall be*

construed as reference to "one hundred and eighty days":

Provided that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period up to one year on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days."

And thus, elucidates for such a purpose period of 180 days. The accused was first produced for remand on 08.01.2015 and the application for extension of the time has been moved on 03.07.2015 and thus, within the period of 175 days. Though much reliance has been sought to be placed by learned counsel for the petitioner on an order dated 16.07.2015 passed by this Court in **CRM-M No.19459 of 2015** titled as '**Bhupinder Singh v. State of Punjab**', however the present preposition is entirely on a different footing. The contention that has been forcefully exerted is that it was only if the extension is required for further investigations such a recourse can be adopted by the learned Special Judge. It is apparent that the application has been moved prior to the expiry of 180 days and in view of the law laid down in '**Sanjay Kumar Kedia @ Sanjay Kedia v. Intelligence Officer, Narcotic Control Bureau and another**', **2010(1) RCR (Criminal) 942**, by Hon'ble the Supreme Court, which is sought to be relied upon by the learned counsel for the petitioner, there is sufficient indication as to the progress of the investigation and its stage and that the non-receipt of the Chemical Examiner's report is

certainly a compelling reason for seeking further detention of the accused who is in notice of this application. The contention that awaiting report of the Chemical Examiner does not falls within the ambit of investigation is untenable as such a restrictive and constrictive approach cannot be taken into such an interpretation and analysis of the sample is very much an integral part of the investigations.

Learned counsel for the petitioner could not spell out how there has been violation of the ingredients of the statutory provision and requirements laid down in **Sanjay Kumar Kedia's case (ibid)**. Thus, in the totality of circumstances, no acceptable reason for holding the impugned order to be illegal or perverse can be entertained.

The revision petition being without any merit stands dismissed. Records be sent back immediately.

(FATEH DEEP SINGH)
JUDGE

August 14, 2015
rps