

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

Crl. Rev. No.271 of 2015

Date of Decision: 19.02.2015

Kuldeep Singh

....Petitioner

Versus

The State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Surinder Sharma, Advocate
for the petitioner.

Mr. T.N. Sarup, Addl. A.G., Punjab
for the respondent-State.

DAYA CHAUDHARY, J.

The present revision petition has been filed to challenge the order dated 20.12.2014 passed by Judge, Special Court, Jalandhar, whereby, the application moved by the petitioner for grant of bail under Section 167(2) of the Criminal Procedure Code has been declined.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case as the alleged recovery was planted upon him due to rivalry with the Incharge of Narcotic Cell Punjab Police. He further submits that neither any independent witness was joined from the public nor mandatory provisions were followed. Learned counsel also submits that the challan was not presented within a period of 180 days from the date of arrest and the application moved by the petitioner for grant of bail as per provisions of Section 167(2) of the Cr.P.C has been dismissed. Learned counsel also submits that the application was moved

by the prosecution under Section 36(A) of the Narcotic Drugs and Psychotropic Substances Act for extension of time, which was allowed on the same day but bail to the petitioner was declined. He further submits that an indefeasible right has accrued to the petitioner in view of provisions of Section 167(2) of the Cr.P.C., but still bail has not been granted to him.

Learned State counsel has not disputed regarding moving of an application by the petitioner for grant of bail and by the prosecution for extension of time.

Heard the arguments of learned counsel for the parties and have also perused the impugned order passed by the trial Court.

Admittedly, the petitioner was arrested on 11.06.2014 and challan was not presented within a period of 180 days. It is also not disputed that the application was moved by the petitioner under Section 167(2) of the Cr.P.C for grant of bail. Similarly, the application was also moved by the prosecution for extension of time. The application for bail was dismissed, whereas, the application for extension of time was allowed on the same date i.e 20.12.2014. No challan was presented as report of the State Forensic Laboratory was not received.

The controversy in the present case is squarely covered by judgment of Hon'ble the Apex Court in case ***Sanjay Kumar Kedia @ Sanjay Kedia vs. Intelligence Officer, Narcotic Control Bureau and another 2010(1) RCR (Criminal) 942.***

Due to non-presentation of challan within a period of 180 days, a right has accrued to the petitioner to be released on bail. Hence, dismissing the petition for grant of bail under Section 167(2) Cr.P.C is not only contrary to the provisions of law but even contrary to ratio of law laid down in ***Sanjay Kumar Kedia's*** case (Supra).

Accordingly, the present petition is allowed and the impugned

order declining bail is set aside and the petitioner is ordered to be released on bail under Section 167(2) Cr.P.C on his furnishing bail/surety bonds to the satisfaction of the trial Court subject to the conditions imposed by it.

19.02.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE