

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

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CRM-M-1443-2016

Date of Decision: March 3, 2016

JASMEET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE M.M.S.BEDI

Present: Mr.R.S.Mehta, Advocate for the petitioner.

Ms.Simsi Dhir Malhotra, DAG, Punjab.

M.M.S.BEDI, J.(Oral)

65 grams of intoxicating powder recovered from the petitioner was found to contain Diphenoxylate hydrochloride. Any quantity above 50 grams of the aforesaid salt would be commercial quantity.

180 days after arrest of the petitioner expired on 15.11.2015. The application under Section 36-A(4) of the NDPS Act was filed on 5.11.2015. The said application was allowed on 16.11.2015 when the petitioner also filed an application under Section 167(2) of the Code of Criminal Procedure. The extension was granted for 30 days on 16.11.2015. The extended period of 30 days expired on 14.12.2015. Another application was filed for extension of period on 15.12.2015. The petitioner filed first application under Section 167(2) of the Code of Criminal Procedure on 16.11.2015 and second after extension of period on 15.12.2015. Both the applications were dismissed.

I have considered the facts and circumstances of the present case. No doubt application for extension of time under Section 36-A(4) of the NDPS Act was filed on 5.11.2015 and allowed on 16.11.2015

when period of 180 days stood expired, the second application for extension of time was filed on 15.12.2015 on the next day when the extended period expired. It is settled principle of law that the indefeasible right accrued to the petitioner on expiry of 180 days in case the petitioner was in custody. Petitioner is in custody after 180 days in a case of recovery of commercial quantity of narcotic substance. On 16.11.2015 when 180 days expired, there was no order passed in favour of the prosecution agency extending the period of presentation of challan. Similarly on 15.12.2015 also the extended period for presentation of challan had already expired on 14.12.2015.

In view of above said circumstances, petitioner can be granted the concession of bail.

Petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the trial court.

March 3, 2016
TSG

(M.M.S.BEDI)
JUDGE