

209-1

CRM-M-15740-2016

Date of Decision : 08.08.2016

Amandeep Singh

.....Petitioner

versus

State of Punjab

....Respondent

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

Present: Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. K.S. Nalwa, Addl.A.G., Punjab.

M.M.S. BEDI, JUDGE (ORAL)

Whether the petitioner is entitled to be released under Section 167 (2) Cr.P.C, in the present case, is to be determined on the basis of certain dates. The petitioner was arrested on 27.06.2014. 180 days of his custody expired on 24.12.2014. The prosecution agency had filed an application under Section 36-A (4) of the NDPS Act on 15.12.2014. The said application was allowed on 24.12.2014 and granted four months' time to present the challan and thereby extended the period for detention. The petitioner had moved an application under Section 167 (2) Cr.P.C. on 25.12.2014, also questioning the propriety of the order passed under Section 36-A (4) of the NDPS Act. Since the extension had already been granted under Section 36-A (4) of the NDPS Act, the application for release on bail under Section 167 (2) Cr.P.C. has been dismissed on 03.01.2015 by this Court without reference to the merits of the case.

Since the order passed under Section 36-A (4) of the NDPS Act was also questioned before the Supreme Court and the petitioner

was not able to get any favourable order, the petitioner had again approached this Court for release on bail under Section 167 (2) Cr.P.C.

I have considered the entire circumstances and I am of the opinion that once the permission was accorded to the prosecution to present challan beyond 180 days on an application under Section 36-A (4) of the NDPS Act, the right available to an accused under Section 167 (2) Cr.P.C stands defeated. No ground is thus made out for grant of bail under Section 167 (2) Cr.P.C.

Dismissed.

Anything said in this order will not affect the right of the petitioner to avail the remedy under Section 439 Cr.P.C under which a petition is already pending in this Court.

(M.M.S. BEDI)
JUDGE

08.08.2016

Neha

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No