

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

(240)

CRM-M-16616-2016 (O&M)

Decided on: May 23, 2016.

Gurdev Singh @ Geba

.... Petitioner

Versus

State of Haryana

..... Respondent

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

Present: Mr. A.R. Sidhu, Sr. Advocate, with
Mr. Pratham Sethi, Advocate, for the petitioner.

Mr. Vikas Malik, DAG, Haryana.

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

Petitioner along with his co-accused was arrested on 23.09.2015 for having been found in possession of 80 kgs of poppy-husk.

Challan was presented on 25.01.2016 without the report of the Forensic Science Laboratory before expiry of 180 days. Report of Forensic Science Laboratory was received after 180 days. It is an admitted fact that no application under Section 36-A (4) of the NDPS Act was filed to seek extension of time to present challan and for extending the period of custody of the petitioner.

This Court, in Gurpal Singh and another Vs. State of Punjab, CRR No.791 of 2016 decided on 23.04.2016, has held that an indefeasible right accrues to an accused under Section 167 (2) Cr.P.C on presentation of incomplete challan without the report of the Forensic Science Laboratory

when the prosecution agency fails to avail the benefit of Section 36-A (4) of the NDPS Act within the period of 180 days. In such circumstances, the petitioner, in the present case, can be granted the concession of bail.

The 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.

(M.M.S. BEDI)
JUDGE

May 23, 2016
harsha