

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

CRM No. M-28900 of 2016

Date of decision:- August 31, 2016

Bhola Singh

.....Petitioner..

Vs.

State of Punjab

....Respondent..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. D.S. Malwai, Advocate,
for the petitioner.

Mr. P.S. Paul, DAG, Punjab.

JASPAL SINGH, J. (Oral)

By virtue of instant petition preferred under Section 167 (2) of the Code of Criminal Procedure, petitioner-Bhola Singh has sought regular bail, in case FIR No. 44, dated 11.08.2014, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "Act"), Police Station Thulliwal, District Barnala.

2. Undisputably, as per the allegations of the prosecution, petitioner was arrested on 11.08.2014 along with some narcotic substance by police party and 180 days were expired on 06.02.2015. By 07.02.2015, no order of final or interim was passed on the application moved under Section 36(A) (4) of the Act by the prosecution seeking extension of time for presentation of challan on 05.02.2015. However, it was disposed of vide

order dated 18.02.2015 i.e. after 11 days of the expiry of a period of 180 days. An indefeasible right accrued to the petitioner could have been defeated, had the prosecution agency obtained extension in accordance with the parameters laid down in the judgements of Hon'ble Apex Court in ***“Sanjay Kumar Kedia @ Sanjay Kedia v. Intelligence Officer, Narcotic Control Bureau”, 2010(1) RCR (Criminal) 942.***

3. The order dated 18.02.2015 could be operative only w.e.f. the date, it was passed. So, in the facts and circumstances narrated above, it can be safely observed that the report under Section 173 (2) Cr.P.C. was not presented within the prescribed period of 180 days. Rather, the extension was accorded/granted to the prosecution on the basis of an application moved under Section 36-A of the Act on 18.02.2015. Thus, the petitioner is entitled to benefit envisaged under Section 167(2) Cr.P.C.

4. In the light of what has been discussed above, petition is allowed and petitioner is ordered to be released on bail, on his furnishing bail bonds/ surety bonds to the satisfaction of trial court/Duty Magistrate.

August 31, 2016
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reasonable: Yes/No