

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

Crl. Misc. No. M-30637 of 2016

Date of decision : 24.10.2016

Jaspreet Singh

....Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. P.S. Ahluwalia, Advocate
for the petitioner

Ms. Manpreet Dhaliwal, AAG, Punjab

RITU BAHRI, J.

Prayer in this petition is for grant of regular bail to the petitioner, in a case arising out of FIR No. 51 dated 14.05.2016, registered at Police Station Women Cell, District Patiala, who has been booked for having committed the offence punishable under Sections 354/376/506/511 IPC and Sections 3/4 of POCSO Act.

Learned counsel for the petitioner submits that in the present case, F.I.R was registered on 14.05.2016 and petitioner was arrested on 16.05.2016 and produced before the Court on 17.05.2016. The investigating agency had a period of 90 days from the said date to conclude the investigation, which lapsed on 14.08.2016, thus the petitioner moved an application for grant of bail on the said date under Section 167 (2) Cr.P.C, which was dismissed by the Court below on the ground that on computing the said period of 90 days the date on which the petitioner was

remanded to custody would be excluded and as such period of 90 days will be counted from 18.05.2016 (17.05.2016 being excluded). Thus, the said period was to expire on 15.08.2016 in the evening and it was only then the right to be released on bail could be said to have accrued to the petitioner. The present petition being filed on 90th day i.e 15.08.2016 at 2.05 P.M before the expiry of 90 days, was thus dismissed.

Learned counsel for the petitioner contends that the petitioner was arrested on 16.05.2016 and if one day is excluded, even in such circumstances, the period of remand started from 17.05.2016 and period of 90 days lapsed on 15.08.2016.

In the present case, the period of remand would start from 17.05.2016 and 90 days would lapse on 15.08.2016. Challan was presented on 16.08.2016 (P-3) at 12 noon, thus the petitioner had a right to be released on regular bail as challan had been presented on 16.08.2016 after a lapse of 90 days. The application moved by the petitioner for releasing him on regular bail under Section 167(2) Cr.P.C has been wrongly dismissed by the Court below on 17.08.2016 the ground that the period of 90 days will be counted from 18.05.2016 and the period of 90 days was to expire on 15.08.2016 in the evening and it was only then the right to be released on bail could be said to have accrued to the petitioner. The present application was dismissed being filed on the 90th day i.e 15.08.2016 at 2.05 P.M. A perusal of order dated 17.08.2016 further shows that on 92nd day when the report was called, the challan had not been presented and thus, indefeasible right had accrued to the petitioner.

In view of the above position, the present petition is allowed.

Petitioner is ordered to be released on bail during pendency of the trial of the present case, subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Patiala.

24.10.2016

G Arora

**(RITU BAHRI)
JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	No