

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

Cr. Misc. M 34970 of 2015
Date of decision: 25.5.2016

Ranjit Singh

Petitioner

vs.

State of Punjab

Respondent

Present: Mr. Parvinder Singh Ahluwalia, Advocate
Mr. Rahish Pahwa, Advocate
Ms. Simsi Dhir, DAG, Punjab

M.M.S.BEDI,J.

This order will dispose of two petitions, one filed by Ranjit Singh (CRM M 34970 of 2016) and the second filed by Ram Kumar (CRM M 3505 of 2016). The petitioners seek the concession of regular bail in a case, which was registered on the basis of a secret information to the effect that the petitioners indulged in selling of poppy husk and opium and were coming from the Madhaya Pardesh in a truck. At naka when the petitioners were stopped, they were found carrying 750 kgs of poppy husk along with 3 kgs of opium in a truck. 180 days in custody expired on 28.8.2015. The prosecution agency opted not to file any application u/s 36-A(4) NDPS Act for extension of time to present challan and to extend the detention of the petitioners. However, incomplete challan was presented on 25.8.2015 without the report of the Chemical Examiner. This court in **Gurpal Singh and anr vs.State of Punjab (CRR 791 of 2016) decided on 23.4.2016** has held that it will be failure on the part of the prosecution agency in filing application u/s 36A (4) NDPS Act to defeat the rights of the accused, alleged to have been found in possession of commercial quantity of the contraband and presentation of the challan without the report of the

Chemical Examiner within a period of 180 days, would entitle the accused to the benefit u/s 167(2) Cr.P.C.

State counsel has relied upon judgment in **Narendra Kumar Amin vs. CBI and others, Cr.Appeal No. 94 of 2015 decided on 15.1.2015**. The ratio of the said judgment is not applicable to the facts of the present case as challan presented in the said case fulfilled all the requirements u/s 173(2) Cr.P.C., whereas in the present case without availing remedy u/s 36-A(4) NDPS Act, an attempt has been made by the prosecution agency to defeat the rights of the petitioners by presenting challan without the report of the Chemical Examiner. It is important to observe here that the report of the Chemical Examiner has not been received by the time petition for bail was filed before this court.

In view of the above circumstances, the petitioners having acquired right u/s 167(2) Cr.P.C., can be granted the concession of bail.

Accordingly, both the petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail bonds/ surety bonds to the satisfaction of the trial court. Since the petitioners are on interim bail, they would be required to furnish fresh bail bonds, pursuant to the order passed by this court today.

May 25 ,2016
TSM

(M.M.S.BEDI)
JUDGE