

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No. M-37871 of 2016

Date of decision:- December 16, 2016

JUGRAJ SINGH @ JAGGA

....PETITIONER..

VS.

STATE OF PUNJAB

....RESPONDENT..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Vivek Goel, Advocate,
for the petitioner.

Mr. RPS Sidhu, AAG, Punjab.

JASPAL SINGH, J. (Oral)

By virtue of instant petition preferred under Section 439 read with Section 167 (2) of the Code of Criminal Procedure, petitioner-Jugraj Singh @ Jagga has sought concession of bail during pendency of trial, in case FIR No.102, dated 23.05.2016, under Section 396 IPC and Section 25/27 of the Arms Act, 1959, Police Station South City, Moga.

2. It is well settled proposition of law as has been held by Hon'ble Apex Court in judgment captioned as ***“Union of India through CBI vs. Nirala Yadav @ Raja Ram Yadav @ Deepak Yadav, 2014(3) RCR (Criminal) 534”*** that on expiry of said period of 90 days, an indefeasible right accrues in favour of the accused for being released on bail on account of default by the investigating agency in the completion of the investigation within the period prescribed and the accused is entitled to be released on bail, if he is prepared to and furnishes the bail bonds as directed by the

Magistrate.

3. Adverting to the facts and circumstances of the case, the petitioner was arrested in this case on 07.06.2016 and was produced in the Court on 08.06.2016. It is also an undisputed fact that report under Section 173(2) Cr.P.C. was presented in the Court of Id. Jurisdictional Magistrate on 07.09.2016 i.e. after the expiry of a period of 90 days. The request for bail has been declined by Id. Sessions Judge, simply on the ground that the challan has been presented but it is well settled proposition of law that once an indefeasible right accrues to the accused, it cannot be scuttle down by mere presentation of report thereafter. In such situation, even an application seeking release on bail under Section 167(2) Cr.P.C. is not required to be moved by the accused. Rather, this fact is required to be taken into consideration by the Court concerned.

4. Taking into consideration the aforesaid aspects as well as legal proposition of law, this Court is of the considered view that petitioner deserves the concession of bail under Section 167(2) Cr.P.C. Accordingly, petition is allowed and petitioner is ordered to be released on bail, during pendency of trial, at the satisfaction of trial Court/Duty Magistrate.

December 16, 2016

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(JASPAL SINGH)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No