

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

CRM-M-5867-2016 (O&M)

Date of decision : 22.08.2016

Manjit Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. S.P.S. Sidhu, Advocate,
for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by HC Atma Ram.

JITENDRA CHAUHAN, J. (Oral)

The petitioners seek statutory release on bail under Section 167(2) of the Code Criminal Procedure (for short, 'the Cr.P.C.'), on expiry of 180 days from the date of their arrest in case FIR No.77 dated 14.07.2015, registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at P.S. Sadar Abohar, District Fazilka.

Heard.

The petitioners were arrested on 14.07.2015, along with 630 Kgs. of poppy husk. 180 days were to expire on 10.01.2016. The prosecution moved application under Section 36A(4) of the NDPS Act, before the competent Court on 06.01.2016, for extension of time to complete the investigation and file challan. Notice in the application was

issued for 08.01.2016, however, on that day, the matter was adjourned to 12.01.2016, on the request made by learned counsel for the petitioners-accused. On 11.01.2016, application under Section 167(2) Cr.P.C. was moved by the petitioners-accused, asserting that 180 days had elapsed and the application moved by the prosecution was pending, therefore, an indefeasible right had accrued in favour of the petitioners. In support of his contentions, learned counsel for the petitioners cites ***Union of India through CBI Vs. Nirala Yadav @ Raja Ram Yadav @ Deepak Yadav, 2014(4) R.A.J. 265.***

It is also to be noticed that the issue with regard to grant of bail under Section 167(2) Cr.P.C. has been referred to a larger Bench vide order dated 11.09.2014, passed in CRR-2087-2014, titled as ***Ranjit Singh @ Rana Vs. State of Punjab.*** However, herein the question arises whether the right of the petitioners would be indefeasible even when the delay in disposing the application by the Court is attributed to the petitioners only. The counsel for the petitioners before the trial Court knew fully well the proposition involved. As per the record, the matter was posted prior to the expiry of 180 days, however, the decision thereon was delayed beyond the statutory period only on account of the request made on behalf of the petitioners.

In such peculiar facts and circumstances of the case, the assertion raised by learned counsel for the petitioners that indefeasible right has accrued in their favour lacks merit. Furthermore, the assertion that the Court has to decide the application on the same date also cannot be accepted as the Courts cannot function in isolation, without the assistance of learned

counsel.

Dismissed.

22.08.2016
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No