

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 1913 of 2015
Date of decision : February 03, 2016

Surinderpal Singh @ Galo

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

1. Whether the Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present : Mr. DS Pheruman, Advocate, for the petitioner
Mr. J.S.Brar, AAG, Punjab

Fateh Deep Singh, J. (Oral)

The revisionist-petitioner Surinderpal Singh @ Galo was apprehended by the police of Police Station Sultanwind, Amritsar headed by Inspector Ravinder Singh and from the accused who is alleged to be coming on a motorcycle, heroin weighing 4 kgs, a commercial quantity was recovered regarding which FIR No. 6 dated 9.1.2014, Police Station

Sultanwind, District Amritsar under sections 21, 22 of Narcotic Drugs and Psychotropic Substances Act (in short, the Act) was registered by way of Annexure P/1. Accused was produced before the Court for the first time on 10.1.2014. During the course of remand, an application was moved by the prosecution for extension of this period in terms of section 36-A of the Act read with section 167 of Code of Criminal Procedure (in short, Cr.P.C.) Annexure P/2 seeking extension of time for investigations on 30.6.2014 and after receipt of the progress report dated 1.7.2014 filed by the State counsel, the court of learned Additional Sessions Judge(Adhoc) Fast Track Court, Amritsar adjourned for notice to accused for 2.7.2014 and thereafter reply by accused was filed on 9.7.2014 and through impugned orders dated 21.7.2014 allowed the application and extended this time by one month i.e. upto 21.8.2014. It is the contention of the revisionist as per the arguments advanced by Sh. DS Pheruman on behalf of the petitioner that period of 180 days was to expire on 9.7.2014 and he had moved application for bail on 11.7.2014 under section 167(2) Cr.P.C. read with section 36-A of the Act.

After hearing arguments of counsel for the petitioner as well as the State and on perusal of records, it is evident that the accused was apprehended on 9.1.2014 and that the learned court had extended the time for presenting of the challan firstly on 21.7.2014 for one month. It is subsequent thereto in terms of section 36-A sub section 4 of the Act, being a commercial quantity weighing 4 kgs of heroin which provides extension of

this period from 180 days to one year. The learned trial court on the grounds that the report of the Chemical Examiner was not received and no fault could be attributed to the Investigating Officer and for which extension has been allowed vide earlier orders dated 21.7.2014 by one month which was to expire on 21.8.2014 and the challan has been presented on 5.8.2014 before the expiry of this period and therefore, has held that the accused-petitioner was not entitled to any bail by virtue of concession envisaged under section 167(2) Cr.P.C. though Mr. Pheruman to impress upon the Court has cited **Hitendra Vishnu Thakur vs State of Maharashtra, 1994 (3) R.C.R. (Criminal) 156; Sanjay Dutt vs State through C.B.I. Bombay, 1994(3) R.C.R. (Criminal) 684; Uday Mohanlal Acharya vs State of Maharashtra, 2001(2) R.C.R. (Criminal) 452; Sanjay Kumar Kedia @ Sanjay Kedia vs Intelligence Officer, Narcotic Control Bureau and Anr., 2010(1) R.C.R. (Criminal) 942; Sayed Mohd. Ahmed Kazmi vs State, GNCTD and ors., 2012(4) R.C.R. (Criminal) 875; Union of India through C.B.I. Vs Nirala Yadav @ Raja Ram Yadav @ Deepak Yadav, 2014(3) R.C.R. (Criminal) 534; Banti vs State of Punjab, CRM-M-2342-2014, decided by this Court on 4.9.2014; Gurwinder Singh vs State of Punjab, CRM-M-20586 of 2014, decided by this Court on 24.6.2014; Rashpal Singh vs State of Punjab, CRM-M-11650-2014, decided by this Court on 7.4.2014; Sukha @ Sukhdev Singh vs State of Punjab, Crl.**

Revn. No. 3837 of 2014, decided by this Court on 18.12.2014 and Nardev Inder Singh vs State of Punjab, CRM-M-3339-2014, decided by this Court on 4.2.2014 and has primarily in his arguments placed heavy reliance on **Uday Mohanlal Acharya's** case (supra) to impress upon the Court that once the challan is not put up within the period stipulated, the accused gets an indefeasible right to bail.

As is evident from the impugned orders, before the expiry of the period admittedly as per the own stand of the counsel for the petitioner, the petitioner has moved bail application under section 167(2) Cr.P.C. on 11.7.2014 and claims that on that day since 180 days has expired and there was no application pending for extension of the time and by virtue of the settled position of law, the petitioner was entitled to grant of bail mandatorily. What is reflected is that the application is dated 30.6.2014 and for which the learned trial court has sought report of the office on 2.7.2014 and fixed 9.7.2014 for reply by the accused and it is only thereafter on 11.7.2014, the accused has moved his bail application when he was fully aware and had been served notice on this application for extension of time. Thus, to the mind of this Court, though the court ought to be vigilant enough to have disposed of the application immediately without loss of time rather than adjourning it and facilitating adequate time to the accused to rake up this plea but for such a judicial act and conduct, the prosecution cannot be fettered with such a fault when it has done so before the expiry of

this time is certainly a fault of the court for which the prosecution cannot be penalised. Even on earlier occasions it has come to the notice of this Court of such casual approach by the courts below which cannot hide under the garb of heavy load of judicial work as it is an onerous duty of the court to expeditiously dispose off such matters without loss of time and since the prosecution has adopted all the measures and have sufficiently enumerated in the report of the prosecution the compelling circumstances the progress of the investigations and the reasons which has led to this seeking extension of the time. Thus, apparently there is no illegality or perversity in this order and that the instant revision is hopelessly without merits and stands dismissed.

February 03, 2016
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(Fateh Deep Singh)
Judge

