

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

CRM-M-11209 of 2017

Date of Decision: May 30, 2017

Vishal @ Sheru

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. P.K. Ganga, Advocate
for the petitioner.

Mr. Munish Sharma, AAG,, Haryana.

FATEH DEEP SINGH, J.

Learned counsel for the petitioner Vishal @ Sheru through this petition initially has sought grant of regular bail under Section 439 Cr.P.C but subsequently had withdrawn this relief and has insisted for interim bail to the petitioner on the grounds that the case of the petitioner was covered under Section 167(2) Cr.P.C as complete challan has not been presented within 90 days.

The contention of the learned counsel for the petitioner that the petitioner is behind the bars since 25.07.2016 and the charges are yet to be framed. The same is opposed by the learned State counsel with much force on the grounds that the contraband which is commercial in nature and banned substances have been recovered and that the challan has already been presented within time fixed and, thus, the petitioner is not entitled to any relief.

Going through the submissions, it was on 25.07.2016

the petitioner was apprehended by the Police leading to recovery of 32 packets (06 injections each) total 132 injections of *Bupre Norphine* each measuring 2 ml and 195 bottles containing AVIL 10 ml each were recovered leading to arrest of the petitioner. Learned counsel for the petitioner could not controvert that the alleged occurrence has taken place on 25.7.2016 and the challan has been presented on 25.10.2016, thus, before the expiry of 90 days and, therefore, challan has been presented well on time. The contentions of the learned counsel for the petitioner that though the chllan has been submitted but without the report of the Chemical Examiner which cannot be termed to be a complete challan does not impresses the Court as Section 173(8) Cr.P.C invests unbridled powers upon Investigation Officer to gather evidence even after submission of the challan in Court and to produce the evidence during further investigations and to the mind of this Court if there is any remiss by the office of Chemical Expert in dispatching the report urgently does not put an embargo on the Investigating Officer to consider such a report even if received subsequently as further evidence collected during further investigations or otherwise prevents the Court to take cognizance of the offence. More so, from the very allegations contained in the report under Section 173 Cr.P.C being manufactured drug which carries the label is in itself suggestive of the nature of contraband. Therefore, not much reprieve could be taken of by the petitioner by getting interim bail as the very spirit of the provisions of Section 36-A read with Section 37 of NDPS Act would be completely eroded, if the petitioner is allowed interim bail as the alleged recovery being intoxicant by way of manufactured drugs and the learned counsel for the

petitioner could not show by any means under what authority the petitioner was carrying contraband deters this Court to grant any relief to the petitioner. Thus, finding no merit the present petitions stands dismissed.

(FATEH DEEP SINGH)
JUDGE

May 30, 2017
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No