

CRM-M-1481-2017

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

CRM-M-1481-2017

Date of Decision: 07.03.2017

Baljinder Singh @ Beeta @ Balwinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. N.S.Dandiwal, Advocate,
for the petitioner.

Mr. Deep Singh, AAG, Punjab.

INDERJIT SINGH, J.

Petitioner-Baljinder Singh @ Beeta @ Balwinder Singh has filed this petition under Section 439 read with Section 167 (2) of the Code of Criminal Procedure, 1973 (for brevity, 'Cr.P.C.') for grant of regular bail in case FIR No.102 dated 23.05.2016, registered at Police Station City South Moga, District Moga, under Section 396 IPC and Section 25 of the Arms Act, 1959.

Notice of motion was issued. Learned State counsel put in appearance on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

CRM-M-1481-2017

Learned counsel for the petitioner argued only on one point that he is entitled to bail under Section 167 (2) Cr.P.C.

From the perusal of impugned order dated 07.09.2016 passed by learned Judicial Magistrate Ist Class, Moga, I find that learned Magistrate has held that the present petitioner was arrested by the police on 07.06.2016 and produced before the court on 08.06.2016 and remanded to the custody by the court. Learned Magistrate also held that the date i.e. 08.06.2016 is not to be included while counting 90 days of the custody and the application has been filed on the 90th day. Learned Magistrate also discussed the law laid down by the Hon'ble Supreme Court in *State of M.P. vs. Rustam and others* 1995 Supp. (3) SCC 221.

I have also gone through the law laid down by the Hon'ble Supreme Court in this judgment wherein it has been specifically held that the day on which the accused is remanded to the judicial custody should be excluded and the day on which challan is filed in the court, should be included.

Keeping in view the law laid down by the Hon'ble Supreme Court in the aforesaid judgment, I find that the application under Section 167 (2) Cr.P.C. was filed by the petitioner on the 90th day i.e. before the expiry of period. Furthermore, the challan was presented on the same day in the Court after 10 minutes of filing of the application which is presented within 90 days. Therefore, the petitioner is not entitled to the benefit of bail.

CRM-M-1481-2017

Therefore, finding no merit in the present petition, the same is dismissed.

07.03.2017
parveen kumar

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No