

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

CRM-M-22335 of 2016

Date of Decision: 02 June, 2017

Devinder Singh @ Gopi

...Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

FATEH DEEP SINGH, J.

The petitioner Devinder Singh @ Gopi has sought grant of regular bail by virtue of provisions of Section 167(2) Cr.P.C read with Section 36A of Narcotic Drugs and Psychotropic Substances Act (in short, 'the Act') on the grounds that the challan has not been presented within a stipulated period and the same is not accompanied by FSL report.

Upon hearing learned counsel for the parties and perusing the records of the case. The allegations in brief are to the effect that on 17.11.2015 Police party accosted on the basis of secret information car bearing registration No.PB-08-CC-8085 owned by co-accused/non-applicant Surjit Singh @ Sita, who was at that time lodged in jail and carrying on trade in narcotics through mobile phone from the jail and on laying of *naka* the above said vehicle was apprehended which was being driven by petitioner Devinder Singh @ Gopi in which others were sitting and from the same three bags each of 30 kg. of poppy husk i.e. 90 Kgms, a commercial quantity was recovered on 17.11.2015. The challan as per the record has been filed in the Court on 6.4.2016 thus, within a period of less

than 180 days as per requirements of Section 36A (4) of the Act. The fact that has been conceded to at bar by the learned State counsel that though the challan has been presented but report of the Chemical Examiner has not accompanied the same. The arguments put forth by the learned counsel for the petitioner that it is incomplete challan and, therefore, entitles the petitioner for bail. Though, on the face of it the arguments appears to be highly inviting, however, there are unbridled powers with the Investigating Agency by virtue of Section 173(8) Cr.P.C to file supplementary challan upon subsequent investigations when new evidence comes before it and, thus, does not bars filing of supplementary challan on receipt of report of Chemical Examiner. It is not a case where the trial Court has framed the charges in the absence of Chemical Examiner Report. Mere fact that the petitioner is in custody is not an extenuating circumstance for grant of bail. Having regard to the commercial quantity of contraband having been recovered from the conscious possession of the accused and the challan having been submitted within the stipulated period and the stringent provisions of bail no ground to grant bail to the petitioner is made out.

The petition as such is dismissed. Investigating Agency is directed to ensure expeditious procurement of the report of Chemical Examiner so that the trial is not unduly hampered.

June 02, 2017

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**(FATEH DEEP SINGH)
JUDGE**

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No