

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

Criminal Revision No.3574 of 2017.
Decided on:-December 12, 2017.

Vishal alias Sheru.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

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

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

The petitioner has filed present revision petition against the order dated 12.07.2017 (Annexure P-5) passed by learned Additional Sessions Judge, Sirsa, whereby the application under Section 167(2) Cr.PC filed by the petitioner for grant of regular bail on account of non-filing of complete Challan within the prescribed period, was dismissed.

Briefly stated, FIR No.636 dated 27.08.2016 under Sections 21-B and 22-B of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act) was registered against the petitioner and other co-accused at Police Station City Sirsa. As per the FIR, on 27.08.2016, when SI Raja Ram along with other police officials was on patrolling duty and checking of suspicious/bad persons at T-point HUDA Chowk, Barnala Road, near Police Line, Sirsa, a vehicle was seen coming from Sector 20, HUDA

Colony, Sirsa side. Noticing the police party, the driver tried to turn back his vehicle. However, the vehicle got switched off. On suspicion, the police party apprehended and enquired the name and address of the accused, who told his name as Vishal son of Ramesh Kumar (the petitioner). A girl, who was sitting on the rear seat, told her name as Shweta daughter of Malkiat Singh Chauhan. On suspicion, that some intoxicant substance may be lying in the car bearing No.HR-99-SWT-7934, notice under Section 50 of the NDPS Act was issued to both the persons sitting in the car. The accused were offered search of their car. However, they were made aware that if they want search of the car to be conducted before some senior officer/Magistrate, such officer can be called at the spot. However, the accused had shown faith in the police party and marked their signatures on the notice memo. On search of the car, two plastic bags of yellow colour were recovered from the back seat of the car. When these bags were opened, bottles of Corex Cough Syrup 100 ML each were found. On counting, it was found that 200 bottles were lying in one bag bearing lot No.620-130400. Similarly, in the second bag bearing lot No.620-130410, 200 bottles were lying. In this manner, total 400 bottles were recovered. The matter was discussed with DCO, who told that he was on leave and asked the police party to get a report from the Government Hospital. Accordingly, a written request was submitted to Dr. Harjinder Kamboj, Medical Officer to give report regarding the recovered bottles. The doctor had opined that the contraband falls under the NDPS Act.

Learned counsel for the petitioner has argued that in the present case, the petitioner was arrested on 27.08.2016 and incomplete Challan was presented by the prosecution on 24.01.2017. Therefore, as per the provisions

of Section 167(2) Cr.PC, when the Challan is not presented within 180 days of the arrest of the petitioner and no further extension was sought by the prosecution, the petitioner is entitled for bail.

He has further contended that in the absence of FSL report, the Challan presented by the prosecution cannot be termed as complete Challan. The FSL report was produced in the Court on 06.05.2017 after the permissible period of 180 days of the arrest of the petitioner, which gives a right to the petitioner to be released on bail. In support of his contention, he has relied upon order dated April 23, 2016 passed by this Court in **CRR No.791 of 2016** titled as **Gurpal Singh and another Versus State of Punjab**.

On the other hand, learned State counsel has argued that the petitioner has moved an application under Section 167(2) Cr.P.C. before the trial Court after a period of two months of the submission of FSL report. In the case in hand, FIR was registered on 27.08.2016 and the Challan was presented without FSL report on 24.01.2017 i.e. after 150 days of the registration of FIR, whereas the FSL report was presented in the Court on 06.05.2017 and it was only on 07.07.2017, the petitioner had filed an application seeking regular bail under Section 167(2) Cr.P.C.

I have heard learned counsel for the parties and find that the petitioner is not entitled to take the benefit of provisions contained in Section 167(2) Cr.P.C. No doubt, initially, Challan was presented in the Court without the FSL report, but the fact remains that the FSL report in the case was presented before the trial Court on 06.05.2017 and the present application seeking regular bail under Section 167(2) Cr.P.C. was filed by the petitioner on 07.07.2017 i.e. after a period of two months of the submission of FSL

report. The petitioner could have filed the application before submission of the report and only in that situation, his case could have been considered. Therefore, the judgment in ***Gurpal Singh and another's case (supra)*** has no applicability to the facts and circumstances of present case, as in that case, application under Section 167(2) Cr.P.C. was filed before the Court before submission of FSL report in the Court.

In view of the above, this Court does not find any illegality or irregularity in the impugned order dated 12.07.2017 passed by learned Additional Sessions Judge, Sirsa and the same is hereby affirmed. Accordingly, the present revision petition, being devoid of any merit, is dismissed.

However, the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

December 12, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No