

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

CRR No.3965 of 2017.
Decided on:-02.11.2017.

Shyam Lal.

.....Petitioner.

Versus

Narcotics Control Bureau, Chandigarh.

.....Respondent.

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

Present:- Mr. D.S. Virk, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present revision petition against the order dated 21.09.2017 passed by learned Special Judge, under Narcotics Drugs and Psychotropic Substances Act, 1985, Kaithal, whereby the bail application of the petitioner was dismissed.

Briefly stated, on the basis of complaint made by Narcotics Control Bureau, Chandigarh, complaint under Sections 8 and 18 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act) was filed against the petitioner. As per the complaint, on 16.03.2017, an information was received by Rajinder Singh, Intelligence Officer of the Bureau that the petitioner is likely to come to Kaithal to deliver a huge quantity of opium. The petitioner generally travels by train upto Karnal and was likely to reach Karnal on 17.03.2017 at about 08.00 A.M. and thereafter to board a bus for Kaithal.

The secret information was reduced into writing by the Intelligence Officer and a team consisting of Intelligence Officer Rajinder Singh along with other officers was formed. The team reached Karnal at 06.00 A.M. and placed surveillance on Karnal Bus Stand. At about 08.30 A.M., the source informed that the accused had reached bus stand and boarded a bus having registration No.HR-64-5128 for Kaithal and the bus had left Karnal Bus Stand for Kaithal. The bus was stopped on entering Bus Stand, Kaithal. The team approached the bus and disclosed its identity to driver Suresh Kumar and conductor of the bus, namely, Mithan Lal. Both of them were requested to join as witnesses and they accepted the same. The team boarded the bus and checked every person. The petitioner was found seated at seat No.9. The intelligence officer told the petitioner that it had been informed that the petitioner was carrying opium and, therefore, the team wanted to search him. Accordingly, notice under Section 50 of the NDPS Act was served upon the petitioner. His right to be searched before a Magistrate or a gazetted officer was explained to him, but the accused verbally as well as in writing agreed to be searched by members of the NCB team. The petitioner took out a plastic sack from his handbag and handed over the same to the intelligence officer and told that the opium which was in his possession, was required to be delivered to someone else at Kaithal Bus Stand. On weighing, it was found to be 02.734 Kgs.

On the basis of above facts, the complaint was filed. During pendency of the complaint, the petitioner moved an application for bail, but

the same was dismissed by learned Special Judge, under the NDPS Act, Kaithal.

Learned counsel for the petitioner has argued that the complaint was instituted on 06.09.2017, but the same was not accompanied with the CFSL report. The petitioner was arrested on 17.03.2017 and the prosecution had filed incomplete Challan on 06.09.2017 without FSL report. In absence of the FSL report, the prosecution agency cannot comment with regard to the ingredients of the alleged recovery of contraband. In support of his contentions, he has placed reliance upon the orders dated 23.04.2016 and 13.12.2016 passed by the coordinate Bench of this Court in ***CRR No.791 of 2016*** titled as ***Gurpal Singh and another Versus State of Punjab and CRM-M-33244 of 2016*** titled as ***Jagsir Singh Versus State of Punjab***.

I have heard learned counsel for the petitioner.

In ***CRM-M-23782 of 2015*** titled as ***Kulwinder Singh Versus State of Punjab***, this Court, vide order dated 27.08.2015 has held that even if the report of FSL has not been accompanied with the report under Section 173(2) Cr.PC, still it would be taken as a complete report and the accused would not be entitled to invoke the right of default bail under Section 167(2) Cr.P.C. Moreover, taking into consideration the gravity of the offence, more particularly when the petitioner was found in possession of 02.734 Kgs of opium (commercial quantity) while travelling all the way from another State, this Court finds that there is no illegality or irregularity in the impugned order passed by learned Special Judge, under the NDPS Act.

Accordingly, the impugned order dated 21.09.2017 passed by learned Special Judge, under the NDPS Act, Kaithal is affirmed and 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 and the trial Court shall decide the case in accordance with law without being influenced by this order.

November 02, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No