

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

CRR No.47 of 2017 (O&M)

Date of decision: 1st November, 2017

Toffik

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sandeep Kotla, Advocate for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

This is a revision petition preferred by the accused Toffik against an order dated 22.12.2016 passed by the Court of learned Additional Sessions Judge, Sonapat on an application under Section 167(2) Cr.P.C. whereby in case bearing FIR No.187 dated 08.06.2016 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 pertaining to Police Station Sadar Gohana, District Sonapat bail application of the petitioner stood dismissed.

The brief facts that need to be brought forth are that on 08.06.2016 a police party while on patrolling duty on suspicion apprehended a person going on foot who later on disclosed his name as Toffik, the present petitioner. After compliance of the provisions of Section 50 of the NDPS Act, on personal search of the petitioner in the

presence of DSP, 1.640 kg of Charas was found from the possession of the petitioner.

Contentions of learned counsel for the petitioner Mr. Sandeep Kotla, Advocate are that FIR and arrest was made on 08.06.2016 and that incomplete challan without FSL report has been produced on 30.09.2016 and thus being incomplete challan, the petitioner was entitled to concession of Section 167(2) Cr.P.C. and has placed reliance on Single Bench judgments of this Court in '**Sukhchain Singh @ Chaina v. State of Punjab**' 2015(4) RCR (Criminal) 518, and '**Gurdev Singh v. State of Punjab**' (CRR No.110 of 2016 decided on 26.09.2016). The same is sought to be stoutly opposed on behalf of the State by Mr. Munish Sharma, Asstt. Advocate General, Haryana on the grounds that mere presentation of incomplete challan does not bestow a right to the petitioner for bail under Section 167(2) Cr.P.C.

Appreciating the submissions of the two sides, it is by no means differed by any of the sides that power of the investigating agency to present supplementary challan in terms of Section 173(8) Cr.P.C. is unrestricted and at any stage when new evidence comes up, the investigating agency is within its rights to file supplementary challan with the evidence so collected. This Court in the case of '**Devinder Singh @ Gopi v. State of Punjab**' (CRM-M No.22335 of 2016) has already expressed its opinion to this effect. Therefore, merely because the petitioner was arrested on 08.06.2016 and the so called incomplete challan was presented on 30.09.2016 does not mean that indefeasible

right has accrued to the petitioner entitling him to bail. The cited ratios do not come to the aid of the petitioner in any manner. The challan has been presented within the prescribed period of less than 180 days and since no benefit can be derived out of such a process as the investigation can still continue, impels this Court to hold that the Court below has given a well reasoned finding by citing a ratio in the case of '**State of Haryana v. Mehal Singh & others**' 1978 PLR 480 and has rightly concluded that without FSL report the challan cannot be said to be incomplete. Thus, nothing by way of illegality or perversity is made out and the revision petition being without any merit stands dismissed.

Records be sent back.

(FATEH DEEP SINGH)
JUDGE

November 1, 2017

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No