

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

(1)

CRR-3037-2017(O&M)

Heera Lal

...Petitioner

Versus

State of Haryana

...Respondent

(2)

CRR-2798-2017

Heera Lal

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision:-1.3.2018

CORAM : HON' BLE MR. JUSTICE H.S. MADAAN

Present: Mr.Johan Kumar, Advocate
for the petitioner in both petitions.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

Vide this order, I propose to dispose of two criminal revisions filed by the petitioner - Heera Lal i.e. **CRR-3037-2017(O&M)** challenging the order dated 13.7.2017 passed by learned Additional Sessions Judge, Faridabad whereby order framing charge was passed and charge was in fact served upon him and **CRR-2798-2017** challenging the order dated 8.8.2017 passed by learned Additional

Sessions Judge, Faridabad dismissing the bail application under Section 167(2) Cr.P.C.

Briefly stated, facts of the case as per prosecution story are that on 15.4.2017, a police party from Police Station City, Ballabgarh had intercepted a vehicle TATA ACE bearing registration No. HR73-7882, white in colour in the area of Opposite Dusshera Ground City Park, Ballabgarh, which was being driven by Heera Lal (petitioner) son of Devi Ram, resident of village Ribar; that on search being conducted, two plastic bags were recovered from the vehicle containing Ganja, which was found to be weighing 86.850 kgs.; that sample were drawn therefrom as per law; that the case property was taken into possession. Accused were arrested. After completion of investigation, challan was filed in the Court. Necessary formalities of supplying of copies of challan and other documents to the accused under Section 207 Cr.P.C. free of costs were completed and after making consideration, a charge for offence under Section 20 of NDPS Act was served upon the accused, to which, they pleaded not guilty and claimed trial.

The grouse of the accused is that report from Forensic Science Laboratory had not been received in the Court when order framing charge was passed and charge was in fact served upon him. Learned counsel for the petitioner relied upon authority **Ravinder @ Binder Versus State of Haryana, 2015(4) R.C.R.(Criminal) 441** by a Co-ordinate Bench of this Court, wherein it was observed that when report under Section 173(2) Cr.P.C. filed in the Court was not accompanied by report from Chemical Examiner, it was incomplete report and the Court was not competent to take cognizance of the

offence. He has further relied upon authority **Rakesh Kumar Paul Versus State of Assam 2017(3) R.C.R.(Criminal) 996** by the Apex Court, wherein it was observed that when challan is not put up within the statutory period, the Court may grant default bail on oral or written application.

Whereas learned State counsel has contended that report has since been received from the Forensic Science Laboratory, in terms of which the recovery of contraband effected from the accused amounts to commercial quantity; that no fault can be found directing framing of charge against the accused and charge-sheet has in fact been served upon the accused; that the challan filed without report of Chemical Examiner is not incomplete though if report is not received and made part of the challan within reasonable time then the accused can be granted interim bail. In support of that contention, he has referred to authority **Inderjeet Singh @ Laddi and others Versus State of Punjab, 2015(1) Crimes 308** by a Division Bench of this Court. He has further referred to the authority **State of Haryana Versus Mehal Singh and another** by Full Bench of this Court decided on 12.4.1978, 1978 PLR 480 which has been referred to by learned Additional Sessions Judge, Faridabad in his order to the effect that challan cannot be considered incomplete merely because report from Forensic Science Laboratory is awaited.

After hearing the rival contentions, I find that the arguments advanced by learned counsel for the petitioner lack merit. A Division Bench of this Court in **Inderjeet Singh @ Laddi** case cited supra while dealing with such an eventuality had observed that the Court may grant

bail to an accused wherever need is felt and where the matter is being unnecessarily delayed till receipt of FSL report. The law is well settled that charge can be amended at any stage. However, the report from FSL received goes to show that the sample sent there was to be of Ganja which is in consonance with the prosecution story. Thus, no ground is made out to accept **CRR-3037-2017** and set aside the order directing framing of charge against the accused and charge-sheet in fact served upon the accused for the offence under Section 20 of NDPS Act. As far as **CRR-2798-2017** is concerned, the second authority referred to by learned counsel for the petitioner i.e. **Rakesh Kumar Paul's** case does not come to his rescue since that relates to non filing of challan within statutory period. However, in this case challan has admittedly been filed within time. Therefore, the petitioner is not entitled to bail under Section 167(2) Cr.P.C.

In view of the above, I find no illegality or infirmity in the impugned orders passed by the Court below, the same are upheld and the revision petitions are found to be without any merit and are dismissed accordingly.

Necessary information be sent to the quarter concerned.

1.3.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No