

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

**CRM-M-9768-2018 (O&M)**

**Date of Decision: 2.8.2018**

Balwinder Singh @ Binda

**....Petitioner**

**VERSUS**

State of Punjab

**....Respondent**

**CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI**

Present: Mr. Anterpreet Singh, Advocate  
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

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**RAJ SHEKHAR ATTRI, J.(Oral)**

The present petition has been filed under Section 167 (2) of Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.51 dated 1.6.2017 registered for the offences punishable under Sections 15 and 25 of Narcotic Drugs & Pscyhotropic Substance Act (for short, "NDPS") at Police Station Maloud, Police District Khanna, District Ludhiana.

Heard.

Undoubtedly, the petitioner was arrested on 1.6.2017 and was produced before learned Magistrate on 2.6.2017. The challan was submitted on 29.11.2017. On the same day i.e. On 29.11.2017, an application was filed for grant of bail on the ground that 180 days had elapsed on 28.11.2017. The said application was dismissed on the ground that in fact, the challan was submitted on 27.11.2017 but on that day, the accused was not produced by the jail authorities. It is apposite to reproduce para 7 to 9 of the

impugned order as under : -

“7. Apart from that what has transpired is the over smart play of the accused to procure the statutory bail by misusing the process of law. Firstly, said ASI Satwinder Singh on 27.11.2017 moved an application, duly forwarded by the prosecution, mentioning the expiry of the period on 01.12.2017, which actually is 29.11.2017. Secondly in spite of the fact that accused Davinder Singh was lodged in Central Jail, Patiala, his Production Warrants were obtained of Central Jail, Ludhiana, resulting in wastage of one day. Thirdly, the Ahlmad of this Court Sh. Pankar Kumar after the entertaining of the Report in the early morning by the Court of the undersigned and directing him to check the Report under Section 173 Cr.P.C. and report, he has mentioned the time as 11:55 A.M. He was not expected to mention the time as the Report has been entertained by the Court, which is to mention the time. He otherwise is not mentioning the said time in any of the similar Reports under Section 173 Cr.P.C. received in the court of the undersigned.

8. All this cannot be otherwise than by playing an active role by the accused or somebody on their behalf to abuse the process of law in securing a statutory bail in an NDPS Act case of commercial quantity wherein otherwise it is not possible and especially when the Report under Section 173 Cr.P.C. has already been forwarded by the prosecution on 27.11.2017 and for submitting the Report in the court, application was moved on 27.11.2017 for seeking the production of the accused before the court, lodged in jail.

9. Such an over smart person facing the accusation of recovery of Psychotropic Substance in commercial quantity otherwise do not deserve the benefit of bail from the court. The explanation of the Ahlmad of the court has separately been called.”

In the case in hand, final report under Section 173 Cr.P.C. was submitted on 27.11.2017. The application for grant of bail was filed on 29.11.2017, therefore, right of the accused for grant of bail has ceased to exist.

Keeping in view the above and without expressing any opinion on the merits of the case, this court is of the view that the impugned order does not suffer from any irregularity, illegality and infirmity and the present petition stands dismissed.

**( RAJ SHEKHAR ATTRI )**  
**JUDGE**

**August 2, 2018**

Paritosh Kumar

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No