

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

CRR No.4855 of 2017

Date of Decision: 17.02.2018

**Vikram @ Dhillu
Vs**

.....Petitioner

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ram Avtar Sheoran, Advocate and
Mr. J.S. Bura, Advocate
for the petitioner.

Mr. M.D. Sharma, A.A.G., Haryana.

RAJ MOHAN SINGH, J.

[1]. The present crl. revision petition has been preferred by the petitioner against the order dated 04.12.2017 passed by the Addl. Sessions Judge-I, Bhiwani, whereby application for the grant of bail under Section 167(2) Cr.P.C. was dismissed.

[2]. Learned counsel for the petitioner submitted that statutory period of filing challan in NDPS cases is 180 days. FIR No.62 was registered on 21.05.2017 and co-accused Krishan was arrested. In his disclosure statement, he nominated one Hukmi Chand, who in turn nominated the petitioner on the ground that grinding of *chura post/doda* was being done from the machine of petitioner. In the disclosure statement of the petitioner, this fact also came to fore. Challan was presented on 06.11.2017 without any report from the Forensic Science

Laboratory (for short 'the FSL'). Co-accused Krishan was arrested on the day of lodging of FIR i.e. 21.05.2017. Petitioner was arrested on 02.09.2017. Joint challan was filed against the accused persons.

[3]. Learned counsel further submitted that period of 180 days expired prior to 20.11.2017. The FSL report was prepared on 27.09.2017, but in fact it was received on 28.11.2017.

[4]. I have considered the submissions made by learned counsel for the parties.

[5]. Proviso to Section 167(2) Cr.P.C. creates an indefeasible right in favour of the petitioner/accused on account of default by the prosecution agency in not completing the investigation within the prescribed time or extended time. As a consequence of the amendment, an accused after the expiry of 180 days from the date of his arrest becomes entitled to bail irrespective of nature of offence with which he is charged with.

[6]. Further, filing of incomplete challan would give indefeasible right to the accused to be released on bail as per Section 167(2) Cr.P.C. Receipt of FSL report on 28.11.2017 would in any case project submission of the same beyond period of 180 days from the date of arrest of the co-accused and in view of joint challan having been filed, the period of 180 days has to be computed from the lodging of FIR on 21.05.2017,

when co-accused Krishan was arrested on the same day.

[7]. In the light of observations made in **Ravinder @ Binder vs. State of Haryana, 2015(4) R.C.R. (Criminal) 441** and **Parshant vs. State of Haryana, 2016(5) R.C.R. (Criminal) 16**, receipt of FSL report on 28.11.2017 would imply that incomplete challan was filed on 06.11.2017, which has the necessary consequence of accruing of indefeasible right in favour of the petitioner under Section 167(2) Cr.P.C. Similar observations were made in **CRM-M No.33931 of 2014** titled '**Ram Kishan vs. State of Punjab**' decided on 13.10.2014 and **CRM-M No.10978 of 2015** titled '**Ranjit Singh @ Rana vs. State of Punjab**' decided on 20.04.2015 by the Co-ordinate Bench of this Court.

[8]. Accordingly, for the reasons recorded above, petition is allowed. Petitioner is ordered to be enlarged on bail in terms of Section 167(2) Cr.P.C., subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

[9]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

February 17, 2018

(RAJ MOHAN SINGH)
JUDGE

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No