

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 955 of 2018 (O&M)

Date of decision : 13.3.2018

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Okoye Destine Echukumu

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

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

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H. S. Madaan, J. (Oral)

Petitioner – Okoye Destine Echukumu was booked by the police in FIR No. 154 dated 12.7.2017 for offence under Section 21 of the NDPS Act, 1985 registered at police Station Rama Mandi, Jalandhar, on the allegations that he was found in possession of contraband amounting to commercial quantity. However, he had moved an application bearing CRM-M-39747 of 2017, before this Court craving for grant of interim bail for the reason that his wife was in a family way, with expected date of delivery as 10.1.2018. A Coordinate Bench of this Court vide order dated 30.10.2017 granted him interim bail till 15.3.2018 on certain conditions. Presently he is on interim bail. He had approached the Court for bail under Section 167 (2) Cr.P.C. for the reason that challan had not been filed within the stipulated period of 180 days. His petition was declined by the

trial Court vide order dated 22.2.2018 with the following observations :-

“As per the record, the accused Okoye Destine was arrested on 12.7.2017. Thereafter, as per the orders of Hon'ble High Court dated 30.10.2017, the applicant has been ordered to be released on interim bail on or after 15.11.2017 to 15.3.2018. He furnished bail bonds in the court on 6.11.2017. 500 gm. Heroin is alleged to have been recovered from the accused/applicant and this recovery falls in commercial quantity. As per section 36 A of the NDPS Act, the challan under Section 173 Cr.P.C. Is to be presented within 180 days in commercial quantity. As per Section 167 (2) Cr.P.C. While computing the date, the period of detention of the accused person otherwise than in the custody of the police is to be considered. In the present case, the accused was arrested on 12.7.2017 and he was released on interim bail on 6.11.2017, meaning thereby that the period of 180 days has not elapsed during which he remained in detention. Challan has already been presented in the present case. The accused is still on interim bail as per the order of the Hon'ble High Court and he is to back to the jail on 15.3.2018. In such circumstances, the

application of the accused/applicant under Section 167 (2) Cr.P.C. Is not maintainable. Hence, the same is dismissed. Papers be tagged with the main trial.”

The petitioner has challenged the said order by way of filing the present petition.

I have heard learned counsel for the petitioner, besides going through the record and I do not find any infirmity or illegality with the impugned order.

The petitioner being on interim bail till 15.3.2018, it is not open to him to ask for the concession of bail under Section 167 (2) Cr.P.C., more particularly, when challan has already been filed.

The revision petition, being without any merit, stands dismissed.

13.3.2018
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(**H.S. Madaan**)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No