

**In The High Court for the States of Punjab and Haryana  
At Chandigarh**

CRR-24-2017 (O&M)  
Date of Decision:-14.2.2019

Bhupinder Kumar @ Binder

... Petitioner

Versus

State of Haryana

... Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana.

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**GURVINDER SINGH GILL, J.**(Oral)

The petitioner Bhupinder Kumar @ Binder assails order dated 3.1.2017 passed by learned Additional Sessions Judge-I, Fatehabad, whereby his application for grant of bail under provisions of Section 167(2) Cr.P.C. has been dismissed.

The petitioner was allegedly found in possession of 4.4. kgs of 'opium' and 4 kgs of 'poppy husk' on 30.6.2016. Although challan was presented on 30.9.2016 but the same was not accompanied by the report of the Chemical Examiner. Thereafter, the petitioner after expiry of 180 days moved an application before the Special Court on 2.1.2017 seeking bail in terms of provisions of Section 167(2) Cr.P.C. on the premises that the chemical Examiner's report not having been filed, the challan even though filed earlier shall be treated to be an incomplete challan and that the

petitioner would be entitled to be released on bail in terms of provisions of Section 167(2) Cr.P.C.

It is not disputed that the report of FSL was filed in the trial Court on 3.1.2017 i.e. after expiry of period of 180 days from the arrest of the petitioner.

The prosecution never sought any extension in this regard. Consequently, in terms of law laid down by a Division Bench of this Court in Ajit Singh alias Jeeta and another Vs. State of Punjab, CRR-4659 of 2015, decided on 30.11.2018, the petitioner is entitled to be released on bail on the premises that the challan, without the report of the FSL, would be treated to be an incomplete challan.

The petition, as such, is accepted. The impugned order dated 3.1.2017 passed by learned Additional Sessions Judge-I, Fatehabad is hereby set aside. The petitioner Bhupinder Kumar @ Binder is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

This present petition stands accepted accordingly.

**14.2.2019**

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**(Gurvinder Singh Gill)**  
**Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No