

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

**CRR No. 1689 of 2019
Date of decision: 19.09.2019**

Surjeet Singh @ Seetu and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Navneet Jindal, Advocate
for the petitioners.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 15.04.2019, vide which, the application filed by the petitioners, under Section 167(2) Cr.P.C., for grant of default bail on account of non-filing the complete challan/report under Section 173 Cr.P.C., has been declined by the trial Court.

Brief facts of the case are that petitioners Surjeet Singh @ Seetu and Ved Parkash were arrested by the police party on 24.12.2018 as they, along with two other co-accused, were travelling in a car, from the dicky of which, 140 grams of Heroin were recovered.

Learned counsel for the petitioners submits that while submitting the report under Section 173 Cr.P.C. on 22.02.2019, the report of the Chemical Examiner was not submitted and, therefore, the complete

challan was not presented.

Learned counsel for the petitioners has relied upon order dated 30.11.2018 passed by a Division Bench of this Court in ***CRR No. 4659 of 2015***, titled as ***Ajit Singh @ Jeeta and another***, to argue that in the absence of the FSL report being part of the challan, the accused person is entitled to get default bail if the challan under Section 173 Cr.P.C. is not submitted within a period of 180 days.

Learned counsel for the petitioner further submits that in ***Ajit Singh's case (supra)***, It has been held by the Division Bench that the only way to establish the nature of contraband is the basis of the Chemical Examiner's report and, therefore, it acquires an immense significance for the trial Court to form an opinion for taking cognizance of an offence, hence, non-inclusion of the Chemical Examiner's opinion in the report under Section 173 Cr.P.C. would expose the accused to unfounded dangers. Accordingly, it has been held that in the absence of submission of the complete report, it would result in benefit of default bail the accused.

Learned State counsel, on instructions from ASI Sita Ram, submits that at the time of submission of challan on 22.02.2019, the report of the Chemical Examiner was not submitted and it was submitted later on.

I have heard learned counsel for the parties.

Without commenting anything on the merits of the case, considering the aforesaid facts and also in view of the judgment rendered in ***Ajit Singh's case (supra)***, the present petition is allowed and order dated 15.04.2019, passed by the trial Court, is set aside.

Accordingly, the petitioners are directed to be released on

regular bail in terms of Section 167(2) Cr.P.C., subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

19.09.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No