

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

Date of Decision: 12.02.2020

1. CRM-M No.5301 of 2020

HC Sukhdev Singh

.....Petitioner

Vs

State of Punjab

.....Respondent

2. CRM-M No.5011 of 2020

Amarjit Singh @ Amru

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. L.S. Mann, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

Vide this common order, CRM-M No.5301 of 2020 titled HC Sukhdev Singh Vs. State of Punjab and CRM-M No.5011 of 2020 titled Amarjit Singh @ Amru Vs. State of Punjab are being disposed of. Since both the cases have arisen from the same FIR, therefore, common facts are being noticed.

Petitioners seek grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.24 dated 11.12.2019 registered under Sections 7, 7-A of the Prevention of Corruption Act and Section 120-B IPC at Police Station Vigilance Bureau, Range Jalandhar, District Jalandhar.

Allegations are that the complainant had gone to his friend's village on 04.12.2019 to attend Bhog ceremony. On his return journey on his motorcycle, he took two bottles of country-made liquor for his personal consumption and put the same in his waist. He was stopped by 4-5 persons in a jeep. The complainant was threatened in respect of liquor. The explanation given by the complainant did not yield any result and those persons took him to village Bilga after making him to sit in their vehicle and they took him to a kothi, where at the outer, gate No.1 was written. The further allegations are that they demanded money from the complainant. Havaladar Sukhdev Singh made him to sit on a side and asked him that how much money he was having. When the complainant replied that he was having Rs.200-400/-, then Havaladar Sukhdev Singh replied that the amount was not sufficient and Rs.10,000/- will be charged. Havaladar Sukhdev Singh handed over the key of the motorcycle of the complainant to one person namely Amru and asked him to pay the amount to Amru and thereafter, his

motorcycle was to be handed over to him. FIR was lodged with some more allegations which are not necessary to be narrated.

The fact remains that even after passing of statutory period of 60 days, challan has not been presented before the Court.

Learned State counsel on instructions from Inspector Chamkaur Singh admits that the challan has not been presented within the period of 60 days as prescribed under Section 167(2) Cr.P.C.

There is no prayer for default bail in this petition.

Learned counsel for the petitioner(s) submits that at the time of filing of the petition, right in terms of Section 167(2) Cr.P.C was not available to him. It came to be available only on 10.02.2020, when period of 60 days has expired.

By referring to **Rakesh Kumar Paul Vs. State of Assam, 2017(3) RCR (Criminal) 996**, learned counsel for the petitioner(s) submits that the petitioner(s) is entitled to default bail under Section 167(2) Cr.P.C, even if, no such prayer has been made in the main petition. Such a relief can be granted even on oral submissions because right under Section 167(2) Cr.P.C is indefeasible and shall accrue to the petitioner(s) automatically.

Since the statutory period of 60 days for filing the chargesheet has expired and learned counsel for the petitioner(s) has argued the case orally, therefore, in view of ratio laid down in **Rakesh Kumar Paul's case (supra)**, the oral prayer made by the petitioner(s) would suffice to answer the indefeasible right of the petitioner(s) by granting him default bail in terms of Section 167(2) Cr.P.C.

In view of above, without meaning anything on merits of the case, both the petitions are allowed and petitioners are directed to be released on default bail in terms of Section 167(2) Cr.P.C subject to their furnishing adequate bail bonds and surety bonds to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate.

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

12.02.2020

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No