

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8299-2020
Date of Decision: 07.08.2020

Sunil Kumar

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Abhay Kumar Sharma, Advocate,
for the petitioner.

Mr. Sidakmeet Sandhu, AAG, Punjab.

HARNARESH SINGH GILL, J.

The petitioner seeks grant of concession of regular bail under Section 439 read with 167(2) Cr.P.C., in case bearing FIR No.128 dated 25.07.2018 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act') at Police Station City Phagwara, District Kapurthala.

The petitioner has sought grant of such bail primarily on two grounds. For one, he asserts that in case of mixture of neutral/non-psychotropic substance, only quantity of such psychotropic substance present in such mixture/solution is to be taken into consideration for determining the 'commercial quantity'. Secondly, it is the assertion of the petitioner that as the challan was not presented by the police within the stipulated

period as provided under the Act, the petitioner is entitled to be released on bail in Section 167(2) Cr.P.C.

Both the aforesaid pleas raised by the petitioner are not available to him.

In Hira Singh and another Vs. Union of India and another, 2020(2) RCR (Criminal) 523, the Hon'ble Supreme Court while answering the reference made to the larger Bench against the view taken in E. Micheal Raj Vs. Intelligence Officer, Narcotic Control Bureau, (2008)5 SCC 161, has held that on the seizure of Narcotic Drugs and Psychotropic Substance with one or more neutral substance, actual contents by weight of the drug is to be taken into consideration.

Regarding the factum of challan not being presented by the police, it has been pointed out by the learned State counsel that the challan was presented on 22.01.2020. This position has not been disputed by the counsel for the petitioner.

It is the settled position in law that the right of default bail under Section 167(2) Cr.P.C. is not an indefeasible right and it ceases to exist upon presentation of the challan.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

07.08.2020
ds

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No