

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

CRR-1200-2020(O&M)

Date of decision:-2.11.2020

Ram Niwas Patidar and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Bijender Singh Dhankhar, Advocate
for the petitioners.

Mr.Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J.

Case taken up through video conferencing.

This revision petition is directed against order dated 12.10.2020 passed by learned Sessions Judge, Sirsa vide which an application under Section 167(2) Cr.P.C. filed by the revisionists/accused for grant of bail was dismissed. The revisionists/accused prays that the impugned order be set aside and application under Section 167(2) Cr.P.C. be accepted and they be granted bail.

According to the revisionists/accused, as per the prosecution story, they were arrested on 31.7.2020 and found in possession of 2 kgs. 300 gms. of opium, which falls within non-commercial quantity, therefore, the statutory period of filing charge-sheet was 60 days and since

the challan was not filed within that period, therefore they got indefeasible right to be released on bail. However, the application was wrongly dismissed by the trial Court vide the impugned order.

I have gone through the impugned order and I do not see any illegality or infirmity therein. The revisionists/accused had been arrested in this case on 31.7.2020 and challan was filed against them on 7.10.2020. Since the FIR had been registered for offence under Section 18 of NDPS Act, the trial Court has noticed the contention of State counsel that accused persons had committed offence under Section 27-A of the NDPS Act, apart from offence under Section 18 of that Act, since as per the disclosure statements of accused, they had purchased 2 kgs. 500 gms. of opium for selling the same to other persons and out of them they had consumed a part thereof, whereas remaining 2 kgs. 300 gms. was recovered from them, in that way, the contraband in their possession amounted to commercial quantity. Furthermore, Section 36-A (4) of NDPS Act provides that in respect of persons accused of an offence punishable under Section 19 or Section 24 or Section 27-A or for offences involving commercial quantity, the period of filing challan is to be taken as 180 days.

I do not find anything wrong with the conclusion arrived at by the trial Court, in the process declining the request for grant of bail to the petitioners to the effect that since challan had not been filed within 60 days of their arrest, they were entitled to bail.

Learned counsel for the petitioner referred to judgments **Raju Singh Versus State of Punjab, 2020(2) RCR(Criminal) 609** and **Rakesh**

Kumar Paul Versus State of Assam, 2017(3) RCR(Criminal)996.

However, those do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

The impugned order passed by the Court below is detailed and well reasoned. The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the order passed by a Court below or the same is perverse but not otherwise. The impugned order does not appear to be suffering from any illegality or infirmity much less apparent on the face thereof. The order is certainly not perverse or passed in an arbitrary manner. There is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

Finding no merit in the revision petition, the same stands dismissed.

2.11.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No