

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

Sr.No.219

**CRR No.142 of 2021(O&M)
Date of Decision: 13-10-2021.**

Kulbir Singh

...Petitioner

Versus

State of Haryana

...Respondent

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. M.L.Saggar, Senior Advocate with
Mr. Onkar Rai, Advocate,
for the revisionist-petitioner.

Mr. Vishal Kashyap, Deputy Advocate General, Haryana.

* * * * *

MEENAKSHI I. MEHTA, J.

By way of the instant petition, the revisionist-petitioner (here-in-after referred to as “the petitioner”) has assailed the order dated 08.01.2021 passed by learned Judge, Special Court, Ambala, whereby the application moved by him for seeking regular bail (second one for this purpose) and also for claiming the default bail in the criminal case pertaining to the FIR bearing No.485 dated 04.07.2020 registered at Police Station Baldev Nagar, District Ambala, under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”), has been dismissed and he also prays for his release on default bail.

2. The facts, culminating in the present revision petition, are that the subject FIR was registered with the allegations that the petitioner and his co-accused named Vijay Pal Singh were found to be in possession of 100 bottles of Chlorpheniramine-Maleat-Codeine Phosphate Syrup “WINCREX”

and 850 strips of Diphenoxylate Hydrochloride Atropine Sulphate Tablets IP Lomotile, each strip containing 60 tablets.

3. Reply on behalf of the respondent-State, by way the affidavit of Deputy Superintendent of Police, Ambala Cantt, District Ambala, along-with the FSL report Annexure R-1, has already been filed.

4. I have heard learned Senior counsel for the petitioner as well as learned State counsel in this petition and have also perused the file thoroughly. It is pertinent to mention here that learned Senior counsel for the petitioner has kept his arguments confined to the relief/claim of default bail only.

5. Learned Senior counsel for the petitioner has contended that the petitioner was arrested on 04.07.2020 and though, the Challan was presented in the Court on 21.09.2020 but the same was an incomplete one as the report of the FSL had not been annexed there-with so as to enable the trial Court to take cognizance in the matter and it being so, the petitioner is entitled to the default bail as envisaged under Section 167(2) Cr.P.C. To buttress his contentions, he has placed reliance upon the observations made by the Division Bench in *Ajit Singh @ Jeeta and another vs. State of Punjab, Criminal Revision No.4659 of 2015 (O&M) Decided on 30.11.2018* and the verdicts as rendered by the Single Benches of this Court in *Julfkar vs. State of Haryana, Criminal Revision No.1125 of 2020 Decided on 16.09.2020;* *State of Haryana vs. Dildar Ram @ Dari, CRM-M No.25600 of 2021 Decided on 15.07.2021;* *Jagvinder Singh vs. State of Haryana, CRR No.361 of 2021 (O&M) Decided on 09.08.2021* and *Rajpal Singh vs. State of Haryana CRR No.780 of 2019 Decided on 17.12.2020.*

6. Per-contra, learned State counsel has argued that the Challan has been presented against the petitioner within the stipulated period and now, even the FSL report has also been submitted and the Challan, even if presented without the FSL report, cannot be taken to be incomplete on the said score and hence, the petitioner is not entitled to the default bail.

7. Concededly, the Challan was presented in the Court within the prescribed/stipulated period. Even if, the report of the FSL had not been submitted along-with the Challan, even then the same cannot be termed to be incomplete in view of the observations, as made by a three Judges' Bench of the Apex Court in **Suresh Kumar Bhikam Chand Jain vs. State of Maharashtra and another, SLP (Criminal) No.147 of 2013 Decided on 13.02.2013** to the effect that “*where a public servant was arrested under the provisions of Prevention of Corruption Act and the investigation was conducted without the sanction of the Competent Authority and the charge-sheet was filed within the stipulated period of 90 days but the cognizance was not taken by the Magistrate for want of sanction, the accused was not entitled to bail under Section 167(2) Cr.P.C and the filing of the charge-sheet was sufficient compliance with the provisions of Section 167(2)(a)(ii) Cr.P.C in the case and whether cognizance was taken or not, was not material as far as Section 167 Cr.P.C was concerned.*”

8. The present case is squarely covered by the afore-cited observations because the plea taken in the said case was that the cognizance was not taken by the Magistrate for want of the sanction as required to be obtained from the State Government concerned and in the present case also, the stand of the petitioner is that in the absence of the report of the FSL, the

Court was unable to take cognizance in the matter. It being so, it is quite explicit that the Challan, presented in the Court, cannot be construed to be incomplete so as to entitle the petitioner to seek the statutory/default bail.

9. In view of the above-discussed observations as made by Hon'ble Supreme Court, the verdicts as rendered by the Division Bench in Ajit Singh @ Jeeta (supra) and by the Single Benches of this Court in Julfkar (supra); State of Haryana (supra); Jagvinder Singh (supra) and Rajpal Singh (supra), are of no avail to the petitioner to claim the default bail.

10. As a sequel to the fore-going discussion, it follows that the petitioner is not entitled to the default/statutory bail and the impugned order dated 08.01.2021 does not suffer from any illegality, irregularity, infirmity or perversity so as to call for any interference by this Court and hence, the revision petition in hand, being *sans* any merit, deserves dismissal. Resultantly, the same stands dismissed accordingly.

(MEENAKSHI I. MEHTA)
JUDGE

13th October, 2021.
seema

Whether speaking/reasoned?	Yes
Whether Reportable?	Yes