

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

211

**CRM-M-16455-2021
Decided on : 23.04.2021**

BASANT SINGH

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Ms. Rupinder Kaur Thind, Advocate
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana

MANJARI NEHRU KAUL, J. (Oral)

This is the second petition filed under Section 439 of the Cr. P.C., 1973 for grant of regular bail to the petitioner in case FIR No.442 dated 01.10.2020 under Section 22 of the NDPS, Act, 1985 registered at Police Station Rania, District Sirsa, Haryana.

Brief facts of the case as set out by the prosecution may be noticed thus. The petitioner was caught along with 160 strips of Parvorin-Spas (Ridley) and Tramadol Hydrochloride-Diclofenac Sodium Dicyclomine Hydrochloride, which was kept in between the petitioner and pillion rider Chhinda @ Chhinder on the motorcycle driven by the petitioner. Accordingly, after complying with the provisions of the NDPS Act, FIR got registered against the petitioner. Thereafter, investigation was set into motion leading to the presentation of challan before the trial Court.

Learned counsel for the petitioner has submitted that the petitioner was arrested on 01.10.2020. He has further submitted that no doubt the challan was presented within the prescribed statutory period of

180 days, however, it was not accompanied by the FSL report. Hence, the challan was incomplete entitling the petitioner to the grant of default bail under Section 167 (2) Cr.P.C.

On the other hand, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from SI Jai Singh, has submitted that the petitioner was found in possession of 160 strips of Parvorin-Spas (Ridley) and Tramadol Hydrochloride-Diclofenac Sodium Dicyclomine Hydrochloride, which falls under the commercial quantity. He has, however, not been able to controvert the factum of FSL report not having been filed along with the challan. Still further, on a pointed query put to learned State counsel, he has conceded that the learned Public Prosecutor did not make any application or report to the Special Court concerned under the provisions of Section 36-A(4) of the NDPS Act, seeking extension of time for filing the FSL report.

Heard.

Admittedly, the challan has been presented in the Court without the FSL report. This Court has no hesitation in holding that indefeasible right of the petitioner to grant of default bail under Section 167(2) read with Section 439 Cr.P.C. has accrued. This Court in **CRM-M-11271-2021**, titled as, “**Saleem @ Mulla Vs. State of Haryana**”, decided on **26.03.2021**, has held that in cases under the NDPS Act, FSL report is a decisive document to link the accused with the commission of crime. In the absence of FSL report not being a part of the challan so presented by the prosecution, it would be deemed to be an incomplete challan, hence, entitling the petitioner

to the grant of default bail. Accordingly, the petition as such is allowed and the petitioner is admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

April 23, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*