

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH
(109)

CRR-385-2021 (O&M)
Date of decision:-06.07.2021

Ravi Dutt Sharma

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Navneet Jindal, Advocate
for the applicant-petitioner.

Mr. Kuldeep Tiwari, Additional Advocate General, Haryana.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to
Covid-19 pandemic.

CRM-16084-2021

Noticing the prayer made in the application, it is allowed.

The date of hearing of the main petition is preponed and is
ordered to be taken on Board today itself.

CRR-385-2021

Instant revision petition has been filed for setting aside the
impugned order dated 10.03.2021 passed by the learned Additional
Sessions Judge, Sirsa, whereby the application filed by the accused-
petitioner seeking compulsive bail under Section 167 (2) of the Code of
Criminal Procedure, 1973 in FIR No. 212 dated 25.07.2020 lodged for
offence under Section 22 (c) of the Narcotic Drugs and Psychotropic
Substances Act, 1985 (for short "the Act") at Police Station Civil Lines,
Sirsar (Annexure P-1), has been dismissed.

As per the version of the prosecution, FIR (Annexure P-1) was registered as 410 capsules of Parvorin-spas (Ridley) & Tramadol – Hydrochloride – Diclofenac – Sodium – Dicyclomin – Hydrochloride Chlorpheniramine Maleate capsules were recovered from the petitioner, who was carrying them in a plastic bag. Petitioner was arrested on 25.07.2020 and in his disclosure statement, he stated that he had purchased the contraband from one Bablu. Investigation was completed and challan was presented on 22.09.2020 without the report from the Forensic Science Laboratory (FSL). The petitioner filed an application seeking default bail on 09.03.2021, which was dismissed by the trial Court vide order impugned herein.

Counsel for the petitioner submits that the petitioner has unblemished antecedents and the FSL report has still not been filed. He contends that FSL report is a necessary part of the challan and non-filing of the same has resulted in an incomplete challan being presented before the trial Court. He submits that as a consequence, the petitioner is entitled to invoke Section 167 (2) of the Code and seek bail on account of the default of the prosecution. He has placed reliance upon order dated 17.12.2020 passed by this Court in ***CRR-780-2019, Rajpal Singh versus State of Haryana.***

Opposing the petition, State counsel on instructions from ASI Rajinder Pal Singh has referred to the status report filed by way of affidavit of the Deputy Superintendent of Police (HQ), Sirsa to contend that the recovery effected from the petitioner falls within the ambit of commercial quantity. He has submitted that the report from the FSL has not received

due to the restrictive functioning of the Laboratory due to the lockdown restrictions imposed by the Government. He, however, is not in a position to deny the fact that the petitioner is not involved in any other criminal case.

Having considered the submissions advanced by the counsel for the parties, this Court is of the view that the matter is squarely covered by the judgment of this Court in Rajpal Singh's case (supra) and the petitioner, who is in custody since the last more than eleven months and has clean antecedents, is entitled to be enlarged on default bail.

Accordingly, the revision petition is allowed. The impugned order dated 10.03.2021 passed by the learned Additional Sessions Judge, Sirsa, is set aside, the petitioner namely, Ravi Dutt Sharma, is ordered to be released on bail on his furnishing heavy bail/surety bonds to the satisfaction of the concerned trial Court. While being released on bail, the petitioner shall furnish an undertaking to the effect that he will not indulge in sale, purchase or trade of prohibited substance.

Liberty is granted to the State to seek modification of this order or cancellation of bail in case the outcome of the reference to a Division Bench in *CRR-1125-2020, Julfkar versus State of Haryana*, is different from the decision in *CRR-4659-2015, Ajit Singh @ Jeeta and another versus State of Punjab*.

06.07.2021

Kamal

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No