

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-660-2021

DATE OF DECISION:- 13.07.2021

GAGAN KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Damodar Khurana, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Additional Advocate General, Haryana
for the respondent-State.

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SUVIR SEHGAL, J.

The hearing of the petition has been taken up through video conferencing on account of outbreak of Covid-19 Pandemic.

Instant Revision Petition has been filed assailing order dated 22.06.2021 passed by the Additional Sessions Judge, Fatehabad, whereby the application filed by the accused-petitioner for release on default bail under Section 167(2) of the Code of Criminal Procedure, 1973, has been rejected.

Brief facts may be noticed.

On 21.12.2020, a Scooty which was being driven by Sanjay @ Munna with Gagan Kumar, present petitioner on pillion, was intercepted by

the police and on checking, 700 strips containing 7000 tablets of Tramadol Hydrochloride with total weight of 3 kg 52 grams were recovered. Both the accused were arrested and produced before the Court on 22.12.2020, when they were remanded to judicial custody. FIR No.497 dated 21.12.2020 (Annexure P-1) was registered under Section 22 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "the NDPS Act"), at Police Station Sadar Fatehabad. In terms of Section 36-A (4) of the NDPS Act, the Investigating Agency was required to file the final report within a period of 180 days, which was to expire on 21.06.2021. On 16.06.2021, an application seeking extension of time was filed and allowed by the Special Court and two months' more time was granted to the Investigating Agency beyond 180 days, i.e., 21.06.2021 to submit the final report. The accused-petitioner filed an application seeking default bail on 21.06.2021, which after notice to the prosecution, has been dismissed by the Special Court vide order impugned herein.

Counsel for the petitioner has argued that right to seek bail on account of default of the investigation is an indefeasible right and cannot be voided. He urges that the order (Annexure P-2) granting extension of time to the Investigating Agency has been passed in violation of the provisions of NDPS Act. It is his argument that the Court below has factually erred in observing that co-accused, Sanjay Kumar, has not been arrested.

Opposing him learned State counsel submits that once the time for filing the challan stood extended, the application seeking default bail cannot be entertained.

Having considered the submissions of the respective parties, this Court is of the view that there is no merit in the Revision Petition. The admitted position is that even before the prescribed period of 180 days expired, the Investigating Agency sought extension of time by filing an application under Section 36-A (4) of the NDPS Act, which was supported by the report of the Public Prosecutor, on the ground that the FSL report is awaited and it is likely to be ready on priority basis by the end of July 2021. This application was allowed on the day it was presented. No right enures to the benefit of the accused to seek default bail till the expiry of extended time. The application filed by him during the extended period, is premature. Even if there is some erroneous observation by the Court regarding the co-accused, that does not advance the case of the petitioner. The argument addressed by the counsel assailing the order dated 16.06.2021 (Annexure P-2) cannot be looked into as the said order is not under challenge before this Court.

In view of the above discussion, this Court does not find any reason to interfere with the impugned order.

Revision petition is dismissed.

(SUVIR SEHGAL)
JUDGE

13.07.2021

Pardeep

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