

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

Criminal Revision No.1158-2021

Date of Decision : 22.11.2021

Baidyanath Mahto

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Bijender Dhankhar, Advocate
for the petitioner.

Mr. Ranveer S.Arya, Addl. A.G., Haryana
for the respondent-State.

JASGURPREET SINGH PURI (Oral)

The present revision petition has been filed, challenging the order dated 03.09.2021, passed by the learned Addl. Sessions Judge, Rohtak whereby the application filed by the petitioner for grant of default bail under Section 167 (2) Cr.P.C. has been declined.

Learned counsel for the petitioner has submitted that the petitioner had statutory right for being released on bail under Section 167(2) read with Section 36-B of the NDPS Act (in short 'the Act') because the challan was filed without the FSL report and it was an incomplete challan and admittedly, the FSL report was filed after the expiry of 180 days. He has further submitted that the learned Addl. Sessions Judge has

erroneously dismissed the application of the petitioner for grant of bail and the petitioner has a statutory right for being released on bail.

Learned counsel for the petitioner has also submitted that the petitioner was arrested on 01.03.2021 and the challan was presented on 10.08.2021 admittedly without FSL report and thereafter the period of 180 days expired on 30.08.2021. The prosecution moved an application for placing on record FSL report on 01.09.2021 which was after the expiry of 180 days and, therefore, such an application had no effect on the statutory right conferred upon the petitioner under the Act. He has submitted that law in this regard has been laid down by the Division Bench of this Court in *Ajit Singh alias Jeeta and another vs. State of Punjab, CRR-4659 of 2015, decided on 30.11.2018* and, therefore, the petitioner is entitled for the grant of default bail.

On the other hand, learned State counsel has submitted that so far as the dates and facts of the present case are concerned, the same are correct. He further submitted that it is correct that the challan has been presented without FSL report and the FSL report was placed on record by filing an application on 01.09.2021 which was after the expiry of 180 days.

I have heard the learned counsel for the parties.

The factual position is not in dispute. The challan in the present case was presented without FSL report and thereafter, after the expiry of 180 days the FSL report was filed by filing an application by the prosecution. A statutory right is vested upon the petitioner as incomplete challan was presented and till the expiry of 180 days, FSL report was not filed. The law in this regard has since been laid down by the Division

Bench in **Ajit Singh's case** (supra)

In view of the aforesaid factual position, the present petition is allowed. The order dated 03.09.2021, passed by the learned Addl. Sessions Judge is hereby set aside. The petitioner is ordered to be released on bail on furnishing of bail bonds/surety bonds to the satisfaction of the concerned Chief Judicial Magistrate/Trial Court/Duty Magistrate.

However, anything observed herein above shall have no effect on the merits of the case and is meant for deciding the present petition only.

22.11.2021
mamta

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No