

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

222

CRR-1263 of 2020

Date of decision :-17.02.2021

Rakesh Puri @ Bulli

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Vikas Bishnoi Godara, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana  
for the respondent-State.

**SUVIR SEHGAL, J.**

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

Instant revision petition has been filed impugning the order dated 09.07.2020 passed by the learned Additional Sessions Judge, Fatehabad, whereby application filed by the accused-petitioner seeking default bail under Section 167(2) of the Code of Criminal Procedure, 1973, read with Section 36-A of the Narcotic Drugs and Psychotropic Substances Act (for short NDPS Act) in FIR No.184 dated 03.05.2020 registered under Section 188 of IPC, Section 51-B of Disaster Management Act, 2005, and Sections 21(b) and 31 of the NDPS Act at Police Station City Tohana, District Fatehabad has been dismissed.

Facts, in brief, leading to the registration of the FIR are that the petitioner alongwith co-accused, Vipin Kumar, were apprehended on the basis of suspicion by a police party on 03.05.2020 while riding a motorcycle and recovery of 80 grams of heroin was effected from co-accused, Vipin Kumar. Investigation was completed and challan under Section 173 Cr.P.C.

was presented on 19.06.2020 without the report of the Forensic Science

Laboratory (FSL). The petitioner filed an application seeking default/compulsive bail on 04.07.2020 after the period prescribed for presentation of challan on the ground that the challan in the absence of the FSL report is incomplete and the petitioner is entitled to be released on bail. This application has been dismissed by the trial court vide order impugned herein.

Counsel for the petitioner has placed reliance upon the judgment of the Supreme Court in **M.Ravindran vs. The Intelligence Officer, Directorate of Revenue Intelligence, 2020 (4) RCR (Criminal) 800**; judgments of this Court passed by a Division Bench in CRR-4659 of 2015 titled as **Ajit Singh alias Jeeta and another versus State of Punjab** decided on 30.11.2018; CRR-1125 of 2020 titled as **Julfkar versus State of Haryana** decided on 16.09.2020; CRR-1150 of 2020 titled as **Rinku versus State of Haryana** decided on 03.11.2020 and CRR-1135 of 2020 titled as **Suresh versus State of Haryana** decided on 18.11.2020. He contends that though the petitioner is involved in some criminal cases, but he has never been declared as a proclaimed offender, and the contraband allegedly recovered from him falls in the category of intermediate quantity.

Opposing the petition, State counsel has relied upon the Full Bench judgment of this Court in the case of **State of Haryana versus Mehal Singh and others**, 1978 PLR 480 and a Single Bench decision of this Court in CRM-M-44412 of 2019, **Shankar versus State of Haryana**, dated 20.12.2019, to contend that without the FSL Report, the challan cannot be said to be incomplete. He urges that the petitioner is involved in seven more cases, out of which four cases are under the NDPS Act and he has been convicted in one case.

I have heard the counsel for the parties and perused the paper book with their able assistance.

The entire plethora of case law on the subject has been considered by a Coordinate Bench of this Court in Suresh's case (supra). Vide judgment dated 18.11.2020, this Court has held as under:-

*“9. In the given circumstances, this Court is also of the view that at this stage the Petitioner ought to be granted Bail in any case since he has already remained in detention for more than 8½ months now and there is no record of his involvement in any other case under the NDPS Act, and on account of on-going Covid-19 Pandemic, the trial which could not commence is likely to take a considerable time in its completion. Further, the validity of the decision in disregarding the Division Bench's decision in Ajit Singh alias Jeeta's case (supra) cannot at this stage be said to be altogether beyond controversy, since the matter has now been referred for consideration afresh in view of the decision in Julfkar's case (supra) which has subsequently been followed in the case of Rinku vs. State of Haryana (supra).*

*10. Taking into account all the above circumstances, the Criminal Revision Petition is allowed at this stage and the Petitioner is permitted to be conditionally released on bail to the satisfaction of the Ld. Trial Court concerned. It is however clarified that in case of any different result coming forth from that in the decision in Ajit Singh alias Jeeta's case (supra), the State would be at liberty to seek cancellation/modification of this order, if warranted at that stage.”*

It may be noticed that the judgment of the Full Bench of this Court in Mehal Singh's case (supra) has been distinguished by the Division Bench in Ajit Singh @ Jeeta's case (supra). It has been observed by the Division Bench that the Court has interpreted the scope of Code of Criminal

Procedure in the backdrop of general offences confined to the Indian Penal Code and other statutes, but the Court was not seized of a matter relating to a special Act, such as NDPS Act.

Still further, involvement of the petitioner in other criminal cases is not a bar to grant of compulsive bail, which is an indefeasible right and accrues in favour of the accused on account of default by the Investigating Agency.

Following the dictum of this Court in Suresh's case (supra) and considering the fact that the petitioner is in custody since more than nine months and that the trial is likely to take time to conclude, the impugned order dated 09.07.2020 passed by Learned Additional Sessions Judge, Fatehabad is set aside. The petitioner, Rakesh Puri @ Bulli is ordered to be released on bail on his furnishing heavy bail bonds/surety to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/ Duty Magistrate concerned. The petitioner shall furnish an undertaking to the effect that he will not indulge in sale, purchase or trade of any prohibited substance and in case he violates the undertaking, it will be open to the prosecution to seek cancellation of bail.

Liberty is granted to the State to seek modification of this order or cancellation of bail, in case the outcome of the case in the reference in Julfkar's case (supra) is different than the decision in Ajit Singh alias Jeeta's case (supra).

Disposed of.

17.02.2021  
*sheetal*

**(SUVIR SEHGAL)**  
**JUDGE**

Whether Speaking/reasoned : Yes/No  
Whether Reportable : Yes/No