

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1286-2020 (O&M)
Date of Decision: February 02, 2021

Devender

... Petitioner

VERSUS

State of Haryana

.... Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present Mr. Vikas Bishnoi, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

JAISHREE THAKUR, J.(Oral)

1. The instant petition has been filed by the petitioner seeking to challenge order dated 15.09.2020 passed by the Additional Sessions Judge, Hisar whereby his application for release on default bail under Section 167 (2), Cr.P.C. arising out of FIR No. 112 dated 15.03.2020 under Sections 16 and 18 of the NDPS Act, registered at Police Station Azad Nagar, District Hisar has been dismissed.

2. Learned counsel for the petitioner herein would contend that the petitioner has been falsely implicated in the said matter and he was arrested on 15.03.2020 under the NDPS Act. It is contended that the petitioner would be entitled for the concession of default bail as the complete challan had not been submitted. It is argued that the challan was presented on 11.05.2020, without being accompanied by the FSL report,

therefore, it would be deemed to be an incomplete challan. The FSL report has been presented only on 15.09.2020 i.e. after the expiry of the stipulated period of 180 days. Hence by virtue of Section 167(2) Cr.P.C., the petitioner would be entitled to be released on default bail. Learned counsel relied upon the judgments as rendered by the Division Bench of this Court in **Ajit Singh alias Jeeta and another vs. State of Punjab in Criminal Revision No. 4659 of 2015** in support of his arguments as well as on the subsequent orders passed by the Single Bench of this Court in **Malody Yodhanpuri vs. State of Punjab in Criminal Revision No. 983 of 2020** and **Rinku vs. State of Haryana in Criminal Revision No. 1150 of 2020** and in **Suresh vs. State of Haryana in Criminal Revision No. 1135 of 2020** etc..

3. Per contra, learned counsel for the respondent-State would urge that the petitioner is not entitled for grant of default bail under Section 167 (2) Cr.P. C., however, he is not in a position to confront the fact that the petitioner is in custody since 15.03.2020 and the challan was presented on 11.05.2020 without being accompanied by the FSL report or the fact that the FSL report had been presented on 15.09.2020 which is well after the period of 180 days. However, respondent-State has not been able to place on record any document showing extension of time was sought in terms of **Section 36A(4) of the NDPS Act.**

4. I have heard learned counsel for the parties and in view of the fact that the petitioner is in custody since 15.03.2020 and in view of terms of law laid down by the Division Bench in case of **Ajit Singh alias Jeeta**

(Supra) and subsequently followed in various above-cited cases, this Court is of the opinion that the petitioner is entitled to be released on bail considering the fact that the challan presented without being accompanied by the FSL report, would be treated to be an incomplete challan.

5. At this stage, without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on bail on his execution of adequate personal and surety bond to the satisfaction of concerned trial Court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case.

6. Other miscellaneous applications, if any, pending on date are disposed of accordingly.

February 02, 2021

seema

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	No