

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

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CRR-1613-2021

Date of Decision : December 16, 2021

CHANDAN KUMAR

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Sandeep Saini, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. Advocate General, Haryana.

JASGURPREET SINGH PURI. J. (Oral)

The present revision petition has been filed seeking quashing of the impugned order dated 3.9.2021 passed by the learned Addl. Sessions Judge, Rohtak by which the application filed by the petitioner for grant of default bail under Section 167 (2) Cr.P.C. has been declined.

It has been submitted by the learned counsel for the petitioner that the petitioner has a statutory right for being released on bail under Section 167(2) Cr.P.C. read with Section 36-B of the NDPS Act (in short 'the Act') in view of the fact that the challan was filed in the present case without the FSL report and, therefore, it was an incomplete challan and admittedly the FSL report was filed after the expiry of 180 days. He has further submitted that the impugned order passed by the learned Addl. Sessions Judge was erroneous by which the application of the petitioner for grant of statutory bail was dismissed.

Learned counsel for the petitioner has further submitted that the impugned order was passed pertaining to two persons, namely, Baidyanath Mahto and the present petitioner namely, Chandan Kumar and the aforesaid Baidyanath Mahto had filed Criminal Revision No. 1158 of 2021 before this Court which has been allowed by this Court on 22.11.2021 vide Annexure P-5 and so far as the case of the present petitioner is concerned, the same is covered by the aforesaid judgment passed by this Court as the facts are identical. He submitted that in the present case as well the petitioner was arrested on 1.3.2021 and the challan was presented on 10.8.2021 and admittedly the same was presented without accompanied by the FSL report and the period of 180 days expired on 30.8.2021. Thereafter the prosecution moved an application for placing on record FSL report on 1.9.2021 which was after the expiry of 180 days and, therefore, such an application had no effect on the statutory rights conferred upon the petitioner under the Act. He has also referred the judgment passed by a 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.***

Mr. Arya, learned Addl. Advocate General, Haryana has submitted that it is correct that the case of the petitioner is covered by the aforesaid judgment in Baidyanath Mahto Annexure P-5 and the facts of the case are also similar and, therefore, he has no objection in case the statutory bail of the petitioner is allowed in the same terms.

I have heard the learned counsels for the parties.

The factual position is not disputed by the learned State

counsel. It is also not disputed that the case of the petitioner is covered by the aforesaid judgment Annexure P-5 by which the revision petition of the other persons namely, Baidyanath Mahto was allowed by this Court.

In view of the above, the present petition is allowed. The order dated 3.9.2021 qua the petitioner passed by the learned Addl. Sessions Judge, Rohtak 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.

December 16, 2021

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**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No