

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

CRR No.3085 of 2019

Date of decision:18.01.2021

Tarsem Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Aditya Sanghi, Advocate and
Mr. Naresh Kumar Ganga, Advocate
for the petitioner.

Mr. Rajiv Sidhu, Deputy Advocate General, 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 coronavirus (Covid-19) pandemic.

The petitioner is in revision before this Court under Section 401 of the Code of Criminal Procedure, 1973 impugning the order dated 07.11.2019 passed by the learned Additional Sessions Judge, Sirsa whereby the application filed by him seeking default bail under Section 167(2) of the Code, has been dismissed.

FIR No.256 dated 12.06.2018, Annexure P-2, was registered against the petitioner under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”). The petitioner was apprehended while travelling in a car and he was found to be in possession of 22 Ampules of Buprenorphine and 24 boxes of Coxvil containing 276 vials without any permit or license. He was arrested on 12.06.2018 and produced before the jurisdictional Magistrate on the next day and continues to be in detention. The investigation was conducted and

final report under Section 173 of the Code was presented on 08.08.2018 and copies thereof were supplied to the accused-petitioner, though it was not accompanied with the FSL report. The statutory period for filing of the challan expired on 12.12.2018. The FSL report was filed by the prosecution before the trial Court on 17.01.2019. Relying upon the judgment of the Division Bench of this Court in CRR No.4659 of 2015 titled as **Ajit Singh alias Jeeta Vs. State of Punjab, decided on 30.11.2018**, an application seeking default bail was filed before the trial Court on 05.11.2019, which was rejected vide impugned order.

Counsel for the parties have been heard.

From the above facts, it is apparent that the petitioner had failed to exercise the right to seek default bail before the presentation of the challan/FSL report. Without going into the question as to whether in the absence of the FSL report, the challan filed by the prosecution was complete or not, the fact remains that once right to be released on bail by default extinguishes, the same could not be revived. Reference may be made to the judgment of the Hon'ble Supreme Court in **M.Ravindran Vs. The Intelligence Officer, Directorate of Revenue Intelligence 2020(4) R.CR.(Criminal) 800** wherein it has been held that in case the accused fails to apply for default bail when the right accrues to him, and subsequently, a charge-sheet or additional complaint or report seeking extension of time is preferred before the Magistrate, the right to default bail would be extinguished.

Finding no merit in the revision petition, the same is dismissed.

January 18, 2021

savita

Whether Speaking/Reasoned

Whether Reportable

(SUVIR SEHGAL)

JUDGE

Yes

Yes/No