

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

**CRR-338 of 2022(O&M)
Date of Decision:- 01.06.2022**

Rani

....Petitioner

Vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

KARAMJIT SINGH, J.(Oral)

The petitioner is seeking default bail in criminal case having FIR No.102 dated 21.07.2020 under Sections 22(C), 27A/61/85 of NDPS Act, Police Station Jakhal.

The counsel for the petitioner contends that as per the prosecution version, the petitioner was arrested on 21.07.2020 and produced in the court on 22.07.2020 and the challan was presented against the petitioner on 20.10.2020 by the police, without the report of FSL. The counsel for the petitioner further contends that no application was moved by the public prosecutor or additional public

prosecutor, as per the provisions of Section 36A(4) NDPS Act seeking extension of time to complete the investigation in the present case. The counsel further contends that petitioner's right to default bail accrued on presentation of application dated 19.01.2021 filed under Section 167(2) Cr.P.C., as even at that time no FSL report was furnished in the Court by the police and thus, the challan dated 20.10.2020 presented against the petitioner, has to be considered as incomplete challan. In support of his contentions the counsel for the petitioner referred to order dated 9.8.2021 passed by the coordinate Bench of this Court in *CRR No.361 of 2021, Jagvinder Singh Vs. State of Haryana*, *CRR No.1314 of 2021, Joginder Singh Vs. State of Haryana*, decided on 11.02.2022 and *CRR No.40 of 2022, Ajaib Singh Vs. State of Haryana*, decided on 17.02.2022, wherein it was held that the challan filed without the FSL report is to be considered an incomplete challan and the accused in such circumstances, would be entitled to grant of default bail.

The counsel for the State on the other hand submitted that that there is no illegality in the impugned order. The State counsel further submits that the challan was filed well in time on 20.10.2020. The State counsel further contends that admittedly the aforesaid challan was filed without the FSL report but still it cannot be treated as an incomplete challan. In support of his contentions, the State counsel referred to *CRR No.1731 of 2019, Akash Kumar @*

Honey Vs. State of Haryana, decided on 16.10.2019, by the Coordinate Bench of this Court.

I have considered the submissions made by the counsel for the parties.

As per the case of prosecution, the present case is involving of commercial quantity of contraband and the petitioner was sent to custody on 22.07.2020. by the Court. The police presented challan on 20.10.2020 against the petitioner, without FSL report. Admittedly, in the present case no application was moved by the public prosecutor under Section 36A(4) NDPS Act seeking the detention of the accused beyond the period of 180 days. Further, no report of public prosecutor indicating the progress of investigation was submitted as per the law laid down in *Sanjay Kumar Kedia Vs. Narcotics Control Bureau (2009) 17 SCC 631*.

The report of FSL goes to the root of the case and is a material document and as such, filing of challan without the same is not to be treated as complete challan, as has been held by the coordinate Bench of this Court in *Jagvinder Singh case (supra)*, *Joginder Singh's case (supra)* and *Ajaib Singh's case (supra)*,. Even the Hon'ble Apex Court in *SLP (Criminal) No.8164-8166/2021 Mohammad Arbaz and others Vs. State of NCT of Delhi*, also granted relief to the accused, under the similar circumstances vide order dated 13.12.2021.

In the light of the above, the impugned order dated 21.01.2021 rejecting default bail to the petitioner is hereby set aside and the petitioner is ordered to be released on default bail on furnishing requisite bail bonds to the satisfaction of concerned trial Court/Special Judge (Duty).

The present petition stands disposed of accordingly, so also the pending miscellaneous application(s), if any.

01.06.2022
P. Chawla

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No