

CRR-918-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-918-2021
Reserved on: 12.09.2022
Pronounced on: 30.09.2022

Naresh Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
320	21.09.2020	Sadar Sirsa	15/61/85 of NDPS Act

1. Aggrieved by the rejection bail vide order dated 29-06-2021, sought under section 167(II) CrPC because the police report filed under section 173 CrPC launching prosecution under section 15 of the Narcotics Drugs and Psychotropic Substances act, 1985, (NDPS Act), the accused person has come up before this Court under Section 397/401 CrPC.
2. A perusal of the impugned order reveals that the decision of a Division Bench of this court on this proposition of law, was not referred before the concerned court.
3. In Ajit Singh v. State of Punjab, CRR-4659-2015, decided on 30.11.2018, a division bench of this court, while answering the reference, holds,

[2]. We have been called upon to answer the question set out below:-

"Whether the presentation of report under Section 173(2) Cr.P.C., 1973 by the police without the report of Chemical examiner/Forensic Science Laboratory amounts to incomplete challan and in the absence of any extension of time under Section 36-A(4) of the N.D.P.S. Act, the accused is entitled to bail under Section 167(2) Cr.P.C., 1973 ?"

[27]. It is for this reason that we would unhesitatingly conclude that the Chemical Examiner's report is an essential ; integral and inherent part of the investigation under the N.D.P.S. Act as it would lay the foundation of an accused's culpability without which a Magistrate would not be enabled to form an opinion

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and take cognizance of the accused's involvement in the commission of offence under the Act.

4. Given the above, the petition is allowed, the impugned order dated 26-09-2021 is set aside, and the matter is remanded back to the trial court to decide the application after referring to and discussing the abovementioned judgment and the latest judicial pronouncements on the proposition of law.

5. Registry and the parties to communicate this order to the concerned court.

6. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

30.09.2022
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Whether speaking/reasoned: Yes
Whether reportable: **No.**