

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

**CRR-1595-2022 (O&M)
Date of decision: 19.12.2022**

Hari Ram Joshi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

The present revision petition has been filed challenging the order dated 21.07.2022, passed by the Judge, Special Court, Ambala, vide which the application, filed by the petitioner under Section 167(2) Cr.P.C., for granting default bail, has been dismissed in case FIR No. 160 dated 29.11.2021, registered under Sections 18, 29 of the NDPS Act, 1985 at Police Station GRP, Ambala, District Ambala.

Learned counsel for the petitioner has relied upon an order dated 13.12.2021 passed Special Leave to Appeal (Crl.) Nos. 8164-8166/2021, tiled as ***Mohd. Arbaz & ors. vs. State of NCT of Delhi***, wherein the issue involved was as to whether the report submitted under Section 173(2) Cr.P.C. without an FSL report will be treated as a complete report or the accused is entitled to default bail and Hon'ble Supreme Court has

granted the concession of interim bail to the accused for a period of three months.

Apart from the above, learned counsel for the petitioner has further argued that even on merits, the petitioner deserves to be granted the concession of regular bail. It is submitted that the FIR was registered on a secret information that the petitioner is carrying opium from Madhya Pradesh with an intention to supply the same in Punjab and Haryana. On receiving the information, a raiding party was constituted and recovery of 42 kgs. and 530 grams of opium was effected.

Learned counsel further submits that the petitioner is a first offender; he is in judicial custody for the last 01 year and 06 days; report under Section 173(2) Cr.P.C. has been presented, however, the charges are yet to be framed and the conclusion of trial is likely to take a long time as they are total 21 cited prosecution witnesses.

Learned State counsel, on the basis of the status report filed by way of the affidavit of DSP, Railways, Haryana, HQ, Ambala, has not disputed that there are total 21 cited prosecution witnesses and the petitioner is not involved in any other case. It is also not disputed that the petitioner is in judicial custody for the last more than 01 year and the charges are yet to be framed.

After hearing learned counsel for the parties, without commenting anything on the merits of the case and without referring to the fact that whether the petitioner is entitled to default bail under Section 167 (2) Cr.P.C. or not, a fact which is disputed by learned State counsel, considering the facts that the petitioner is not involved in any other case; he

is in judicial custody for the last more than 01 year and conclusion of trial is likely to take some time as even charges have not been framed so far, the present petition is disposed of and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

19.12.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No