

**CRR-1041-2021**

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

**CRR-1041-2021 (O & M)  
Date of decision: 03.03.2022**

Rajender Kumar @ Surender @ Chhinda

...Petitioner

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

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

Mr. Surender Singh, AAG, Haryana.

**HARNARESH SINGH GILL, J. (ORAL)**

Challenge in the present revision is to the order dated 19.11.2020 passed by the learned Additional Sessions Judge, Sirsa, whereby an application filed by the petitioner seeking concession of bail under Section 167(2) Cr.P.C., was dismissed.

Learned counsel for the petitioner contends that the FIR in this case was registered on 25.04.2020; that the challan sans FSL report was presented on 04.09.2020 and that no application under Section 36-A of the NDPS Act, was ever moved by the prosecution for extension of time.

While relying upon the order dated 13.12.2021 rendered by the Hon'ble Supreme Court in SLP (Crl.) Nos.8164-8166/2021, titled as 'Mohd. Arbaz & Ors. Vs. State of NCT of Delhi', and the orders dated 15.07.2021 and 09.08.2021 by the Coordinate Benches in CRM-M-25600-2021, titled

**CRR-1041-2021**

as 'State of Haryana Vs. Dildar Ram @ Dari', and CRR-361-2021, titled as 'Jagvinder Singh Vs. State of Haryana', learned counsel for the petitioner contends that the issue involved in the present case is squarely covered by the said judgments and, therefore, the petitioner may be released on bail under Section 167(2) Cr.P.C.

On the other hand, learned State counsel, while opposing the prayer of the petitioner, relies upon the judgments passed by the Supreme Court in Abdul Azeez P.V. Vs. NIA, 2014(3) ACR 3335, and CBI Vs. R.S. Pai and others, AIR 2002 SC 1644 and Narendra Kumar Amin Vs. CBI, 2015(1) RCR(Crl.) 566. He also relies upon the judgments passed by the Coordinate Benches of this Court in Akash Kumar @ Sunny Vs. State of Haryana, CRR 1731 of 2019 decided on 16.10.2019 and Azuka Vs. State of U.T., CRR-765-2020, decided on 13.03.2020.

Still further, learned State counsel submits that the petitioner and the co-accused were apprehended with 16000 intoxicating tablets of Tramadol Hydrochloride Tablets. The recovery effected in the present case falls under the commercial quantity and, therefore, the petitioner is not entitled to any concession under Section 167(2) Cr.P.C.

I have heard learned counsel for the parties.

It is not disputed by the learned State counsel that no application for extension of time was filed.

The petitioner is claiming the concession of bail under Section 167(2) Cr.P.C. in view of the aforesaid judgments of the Coordinate Benches, wherein a threadbare discussion has been made with regard to various judgments of the Division Bench(es); Coordinate Benches of this

**CRR-1041-2021**

Court and the Hon'ble Apex Court.

It may be noticed that a Coordinate Bench of this Court in Julfkar Vs. State of Haryana', CRR-1125-2020, decided on 16.09.2020, while referring the matter to the Division Bench, for its authoritative pronouncement on the issue, has also observed that in the event of the question being answered against the accused i.e. the challan filed without the FSL report is complete, the prosecution would be at liberty to move an application for cancellation of bail.

It may further be noticed that the Coordinate Benches in Dildar Ram @ Dari and Jagvinder Singh's casea (supra), have examined in extenso, similar submissions made on behalf of the counsel representing the petitioners therein and it is only thereafter, that the concession of regular bail under Section 167(2) Cr.P.C. was granted to the accused-petitioners therein.

In view of the above, the present petition is allowed and the impugned order dated 19.11.2020 passed by the learned Additional Sessions Judge, Sirsa, is set aside and the petitioner is ordered to be released on bail under Section 167(2) Cr.P.C.

The petitioner shall also faithfully attend the hearing of the case during the trial on each and every date, besides, abide by the conditions as contained in Section 437(3) Cr.P.C. and in case of violation of any of the conditions or involvement in any other case under the NDPS, Act, 1985 during the period the petitioner is on default bail, the prosecution would be at liberty to move an application for cancellation of bail granted to the petitioner in the instant case.

**CRR-1041-2021**

**CRM-1678-2022**

Since the main revision stands allowed, the present application for an early hearing of the same and for releasing the petitioner on interim bail has become infructuous.

Dismissed as having become infructuous.

**03.03.2022**

parveen kumar

**(HARNARESH SINGH GILL)**  
**JUDGE**

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No