

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

CRR-334-2023

Date of decision: 31st July, 2023

Kramjeet Singh @ Happy

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Navneet Jindal, Advocate for the petitioner(s).
Mr. Rajiv Sidhu, DAG, Haryana.

AVNEESH JHINGAN, J (Oral):

1. This petition is filed aggrieved of order dated 5th December, 2022 dismissing the applications under Section 167(2) Cr.P.C. praying for grant of default bail on expiry 60 days in case of an FIR registered under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act')

2. As per the case set up by the prosecution on 25th August, 2022, 480 tablets containing alprazolam salt and 450 tablets containing tramadol salt were recovered from a polythene carried by the petitioner. An application was filed on expiry of 60 days for default bail. Application was rejected on 5th December, 2022, considering that at that stage it was not possible to comment upon as to whether recovery is commercial or non-commercial. It was further noted that in case of commercial quantity, the time stipulated for presenting challan is 180 days. Aggrieved of the order, present revision petition is filed.

3. Vide order dated 16th February, 2023, following order was passed:-

The counsel for the petitioner submits that the application moved by the petitioner for grant of default bail under Section 167(2) Cr.P.C. in criminal case having FIR No.441 dated 25.8.2022 under Section 22(c) NDPS Act, Police Station City Dabwali was dismissed by the learned trial Court vide order dated 5.12.2022.

Being aggrieved the present revision petition has been filed by the petitioner.

The counsel for the petitioner further submits that the petitioner is in custody for the last more than 5 months and 21 days and the report of FSL is still awaited and that it will take time for disposal of the present revision petition. so prayer is made that the petitioner be granted interim bail till the receipt of report of FSL.

The State counsel has furnished the custody certificate of the petitioner, as per which he is in custody for the last more than 5 months and is not involved in any other criminal case under the NDPS Act. The State counsel on instructions from SI Kamal Singh admitted that the report of FSL is still awaited.

In the given circumstances as it is not clear that the case of the petitioner is covered under commercial or non-commercial quantity, it will be just and expedient to release the petitioner on interim bail. Accordingly the petitioner is hereby directed to be released on interim bail till the next date of hearing on his furnishing requisite bail and surety bonds to the satisfaction of trial Court/Duty Magistrate.

Now be listed on 3.5.2023.”

4. Learned counsel for the petitioner submits that after expiry of 180 days another application under Section 167(2) Cr.P.C. was filed but it was rejected. He further submits that recovery was of non-commercial quantity and petitioner was entitled to default bail after 60 days.

5. Learned State counsel on instructions submits that Forensic Science Laboratory report is still awaited.

6. The issue whether the recovered quantity is commercial or non-commercial can be decided only on receipt of FSL report.

7. Learned counsel for the petitioner at this stage, considering that the subsequent order dismissing the default bail has not been challenged, restricts his prayer that the interim bail granted be extended till the receipt of FSL report and liberty be granted to avail remedies in accordance with law.

8. The request made by learned counsel for the petitioner is accepted, interim bail granted vide order dated 16th February, 2023 shall continue till the receipt of FSL report.

9. The petition is disposed of with liberty as prayed for including to challenge the subsequent order rejecting the default bail.

10. Since the main case has been disposed of, pending application if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

31st July, 2023

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No