

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

CRR-455-2023

Date of decision : 17.02.2023

Ajay Kumar

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kartar Singh, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court impugning the order dated 02.02.2023 passed by learned Additional Sessions Judge, Fatehabad wherein the bail application filed by the petitioner under Section 36-A of NDPS Act and Section 167(2) Cr.P.C. was declined.

It has been contended by counsel for the petitioner that the petitioner specifically filed the application for granting default bail as the investigating agencies filed the challan without FSL report and thus, the same entitled him for grant of default bail under Section 167(2) Cr.P.C. However, learned Additional Sessions Judge did not appreciate the contentions raised by the petitioner and without giving any finding, the same has been declined by passing the impugned order dated 02.02.2023.

Notice of motion.

On asking of the Court, Mr. B.S. Virk, DAG, Haryana accepts notice on behalf of the respondent-State. He though has submitted that the non-commercial quantity was recovered from the petitioner, however, he is also of the opinion that learned trial Court has not given

any finding pertaining to prayer of the petitioner regarding default bail under Section 167(2) Cr.P.C.

After hearing counsel for the parties and perusing the record, it is apparent that the specific prayer of the petitioner was to grant him default bail under Section 167(2) Cr.P.C. on the basis of the grounds taken therein. However, learned trial Court has fallen in error in not advertng to the submissions made by the petitioner and thus, there is no finding whatsoever on the issue raised. Accordingly, the impugned order dated 02.02.2023 is *set aside* and the case is remanded to the concerned Court with a direction to decide it afresh expeditiously after hearing both the sides.

Disposed of.

(RAJESH BHARDWAJ)
JUDGE

17.02.2023
m. sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No