

State of Haryana

...Petitioner

Versus

Harpal Ram alias Lalu

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**Present:** Mr. Munish Sharma, DAG, Haryana
for the petitioner.Mr. Vishwajeet, Advocate
for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439(2) read with Section 482 Cr.PC for cancellation of default bail granted to respondent vide order dated 12.03.2021 (Annexure P-1) passed by the trial Court in FIR No.05 dated 04.01.2021 under Section 15(b)/29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "the NDPS Act") registered at Police Station Guhla, District Kaithal.

2. Heard counsel for the parties.

3. A Division Bench of this Court in CRR No.4659 of 2015 titled as **Ajit Singh @ Jeeta and another Vs. State of Punjab**, and other connected cases, by judgment dated 30.11.2018, has concluded that Chemical Examiner's report is an essential, integral and inherent part of investigation under the NDPS Act as it lays the foundation of the culpability of an accused, without which the Trial Court would not be able to form an opinion to take cognizance of his involvement in the commission of the offence under the NDPS Act. Following the dictum of the Division Bench, the Trial Court vide order dated 12.03.2021 (Annexure P-1) has granted default bail to the accused-respondent

No.2, who

was apprehended on 04.01.2021 and poppy straw weighing 2 kg. has allegedly been recovered from his possession. Noticing conflicting views, a Co-ordinate Bench of this Court in CRR No.1125 of 2020, titled as **Julfkar Vs. State of Haryana**, by order dated 16.09.2020, has made a reference to a Division Bench, which is pending. Simultaneously, it has been directed that the accused be released on bail on furnishing bail and surety bonds to the satisfaction of the Trial Court.

4. In view of the above position, this Court does not intend to interfere with the order dated 12.03.2021 (Annexure P-1) at this stage, nor does it intend to defer the petition, which is pending for the last more than two years.

5. Petition is dismissed. However, liberty is granted to the State-petitioner to seek revival of the petition in case the outcome of reference to a Division Bench in Julfkar's case (supra) is different from the decision in Ajit Singh @ Jeeta's case (supra).

20.07.2023

Parveen kumar

**(SUVIR SEHGAL)
JUDGE**

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