

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

**CRR No.630 of 2021
Date of Decision: January 23, 2023**

**Roshan Lal and others ...Petitioners
Versus
State of Haryana ...Respondent**

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Kanwaljit Singh, Senior Advocate with
Ms. Neha Anand Raheja, Advocate for petitioners
No.1 and 3.

Mr. Kapish Singla, Advocate for Mr. Ashit Malik,
Advocate for petitioner No.2.

Mr. Vishal Malik, DAG, Haryana.

DEEPAK GUPTA, J.(Oral)

This petition is directed against order dated 13.05.2021, whereby default bail sought by the petitioners under Section 167(2) Cr.P.C has been declined in case FIR No.580 dated 30.10.2020 registered at Police Station Sadar Thanesar, District Kurukshetra under Sections 15, 20, 27A, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, by learned Additional Sessions Judge, Kurukshetra.

It emerges that on the basis of secret information, petitioners Roshan Lal, Firoz Khan and Sandeep were arrested on 30.10.2020 having in their possession 10 quintals & 37 kg of poppy husk; and 34 kg. of ganja. After making necessary compliance, the accused were put under arrest. The period of 180 days expired from the date of arrest of the petitioners on 28.04.2021. By that time, challan was not filed. However, prior to that, on 27.04.2021 an application was moved before the learned Special Judge, Kurukshetra to extend by two months, the time to file the challan. The said application was allowed. Challan was then

filed on 07.05.2021. The petitioners applied for default bail under Section 167(2) Cr.P.C on 13.05.2021, which by way of the impugned order has been dismissed.

It is contended by learned counsel that while extending the time for filing of the challan by two months on 27.04.2021, notice to the petitioners was not given and, therefore, petitioners cannot be denied the benefit of default bail. Reliance is placed upon **Sanjay Kumar Kedia @ Sanjay Kedia Vs. Intelligence Officer, Narcotic Control Bureau and another, 2010(1) RCR (Criminal) 942**, wherein it has been held by Hon'ble Supreme Court that when investigation is not completed within 180 days in a case under NDPS Act, the extension of time cannot be given on the application for investigation and if the prosecution moves an application to extend the time under Section 36A(4), before granting the extension, notice must be issued to the accused for doing complete justice, although Section 36A(4) does not provide for issuance of the notice. Apart from this, in order to exercise the power for extension of time to file the challan, there must be specific and compelling reasons for seeking the detention of the accused beyond the period of 180 days. Report of the public prosecutor indicating the progress of the investigation must also be filed. Further reliance is placed upon **Rakesh Kumar and another Vs. State of Punjab, 2011(3) RCR (Criminal) 297**, wherein challan was not put up within 180 days and rather it was put after expiry of 180 days. Accused was released on bail.

Having considered submissions of both the sides, I find no merit in petition. In the present case, it is not disputed by learned State

Counsel that notice to the petitioners was not issued when time was extended to file the challan vide order dated 27.04.2021, however, it is rightly pointed out by him that said order dated 27.04.2021 has never been challenged by the petitioners. Thereafter, the challan has been filed within the extended time as allowed by the Court.

Once it is found that order dated 27.04.2021 whereby time to file the challan was extended has not been challenged, the petitioners cannot be given any advantage of the legal position in **Sanjay Kumar Kedia's case (supra)**. As such, it is held that petitioners are not entitled for default bail as challan has since been filed within the time extended by the Court.

In view of the aforesaid circumstances, I find no merit in the present revision petition. Default bail has been rightly declined by the learned Additional Sessions Judge, Kurukshetra by way of the impugned order.

As such, the petition is dismissed.

January 23, 2023

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(DEEPAK GUPTA)
JUDGE

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