

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

106

CRR-1297-2023

Date of decision: 17.05.2023

Pappu Sahni

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vikas Lochab, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is impugning the order dated 29.04.2023 passed by learned Additional Sessions Judge, Ambala whereby an application moved by him for extending the concession of default bail in case FIR No.402 dated 21.10.2022 under Sections 18/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Parao, District Ambala, under Section 36-A of the NDPS Act read with Section 167(2) of the Cr.P.C., was dismissed.

2. Learned counsel for the petitioner submits that a false recovery of 2 kgs 600 gms of opium was planted upon the petitioner and he was shown to have been arrested on 21.10.2022. Thereafter, when the challan was presented in the Court on 31.03.2023, the FSL report was not part of the challan. Learned counsel has argued that it would be deemed to be an incomplete challan, thus, entitling the petitioner to the concession of default bail under Section 167(2) of the Cr.P.C. read with Section 36A(4) of the NDPS Act. Learned counsel in

support has placed reliance upon a decision of this Court in ***CRM-M-11271-2021 titled as 'Saleem @ Mulla Vs. State of Haryana' decided on 26.03.2021.***

3. I have heard learned counsel and perused the relevant material on record.

4. The petitioner was arrested in the case in hand on 21.10.2022. The challan was presented on 31.03.2023, though without the FSL report. Thereafter, an application seeking extension of time for filing of the FSL report was moved by the prosecution, which was allowed on 10.04.2023 i.e. before the expiry of the prescribed period of 180 days under the NDPS Act for presentation of challan. An extension of 03 months till 09.05.2023, was given by the Court below to the prosecution to file the FSL report. Had no application been filed by the prosecution seeking extension of time for filing of the FSL report or if any such application seeking extension of time to file the FSL report had been filed after the expiry of the stipulated 180 days, it is only then the petitioner could have been entitled to the concession of default bail under Section 167(2) of the Cr.P.C. The reliance placed upon ***Saleem @ Mulla's case (supra)*** will not come to the rescue of the petitioner as in that case concededly no report in terms of Section 36A(4) of the NDPS Act had been made to the Special court concerned by the prosecution, seeking extension of time for filing FSL report and as such the petitioner had acquired his indefeasible right to default bail. On the other hand, in the present case, it is a matter of record that an application under Section 36A(4) of the NDPS Act had been moved by the prosecution before the stipulated period of 180 days.

5. As a sequel to the above, the instant petition being devoid of merit stands dismissed.

17.05.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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