

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

238

CRR-2826-2022 (O&M)

Date of decision: 22.05.2023

Ajay Goyal @ Ajay

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Arjunveer Sharma, Advocate
for the petitioner

Mr. M.S. Nagra, AAG Punjab

AMAN CHAUDHARY. J.

1. Challenge in this revision petition is to an order dated 15.03.2022 passed by the Judge Special Court, Ludhiana, whereby the application filed by the petitioner under Section 167 (2) Cr.P.C. was dismissed.

2. Learned counsel for the petitioner has apprised this Court of the issue that was pending before Hon'ble The Supreme Court to have been decided in their favour, as the day of remand has been held not to be excluded.

3. Learned State counsel is unable to controvert the aforesaid fact.

4. Heard.

5. This Court had passed the following order on 16.02.2023:

“Learned counsel for the petitioner refers to orders dated 21.10.2022 passed in CRR- 578 and 819-2022, Annexure P-4, filed by the similarly situated co-accused, who have been already been granted interim bail on the same issue involved in the present case and in view of the orders passed by this Court in similar cases, subject to the decision of Criminal Appeal Nos. 701-702 of 2020, titled as “Enforcement Directorate, Govt of India vs. Kapil Wadhawan and another, pending before Hon'ble The Supreme Court of India.

Learned State counsel has filed affidavit of Gurdev Singh, Assistant Commissioner of Police, Ludhiana (East), which is taken on record. However, he is unable to controvert the aforesaid fact of the coaccused in the present case having been granted interim bail.

In view of the prayer made and parity with the co-accused, who have already been released on interim bail, the petitioner is ordered to be released on interim bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. The same shall be subject to the final outcome of the aforesaid Criminal Appeals pending before Hon'ble The Supreme Court.

Adjourned to 01.03.2023.

To be heard along with CRR-819-2022. ”

6. The issue involved in the present case has since been settled by Hon'ble The Supreme Court in the case of **Enforcement Directorate, Government of India vs. Kapil Wadhawan and another**, Criminal Appeal Nos. 701-702 of 2020, decided on 27.03.2023. The relevant para of which reads thus:

“50. ...We therefore declare that the stipulated 60/90 day remand period under Section 167 CrPC ought to be computed from the date when a Magistrate authorizes remand. If the first day of remand is excluded, the remand period, as we notice will extend beyond the permitted 60 /90 days’ period resulting in unauthorized detention beyond the period envisaged under Section 167 CrPC. In cases where the chargesheet/final report is filed on or after the 61st/91st day, the accused in our considered opinion would be entitled to default bail. In other words, the very moment the stipulated 60/90 day remand period expires, an indefeasible right to default bail accrues to the accused.”

7. In view of the above, the order dated 15.03.2022 is hereby set aside. Accordingly, the interim bail granted to the petitioner vide order dated 16.02.2023 is made absolute subject to furnishing fresh bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

8. The present petition is disposed of.

(AMAN CHAUDHARY)
JUDGE

May 22, 2023
M.Kamra/gsv

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No