



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

267

CRR-392-2024 (O&M)
Date of Decision.:27.05.2024

Suraj Lal
Vs.
State of Haryana

.....Petitioner
.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sachin Kaushik, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J. (ORAL)

Petitioner was arrested in case FIR No.46 dated 15.06.2022 under Sections 66C, 66D of the Information Technology Act registered at Police Station Cyber Crime, MDC, Panchkula, in which Sections 420, 468, 471, 120-B of the IPC added later on. Petitioner applied for default bail under Section 167(2) Cr.P.C. vide order dated 31.01.2024 which was declined as the challan had already been filed. Petitioner has challenged this order on the ground that after his apprehension on 28.11.2023, his 60 days period had expired on 29.01.2024 but the Court of learned Area Magistrate did not inform the petitioner- accused about his right to apply for the default bail. Learned counsel refers to "*Ramesh Kumar Paul v. State of Assam*" 2017(3) R.C.R.(1996), wherein it was observed by Hon'ble Supreme Court that right to legal aid is a fundamental right and that said legal aid has to be

**CRR-392-2024 (O&M)**

competent legal aid and so, it is the duty of the counsel representing the accused, whether they are paid counsel or legal aid counsel to inform the accused that on the expiry of the statutory period of 60/90 days, they are entitled to default bail. It was also observed that Magistrate should also not encourage their wrongful detention and must inform the accused of his right.

2. It is conceded by learned counsel for the petitioner that the aforesaid observations made by Hon'ble Supreme Court were only the *obiter dicta* and no law was laid down in this regard.

3. Apart from above, perusal of the order dated 25.01.2024, whereby judicial remand of the petitioner was extended, would reveal that petitioner was duly represented by Shri Yavneet Dhakla, Advocate. Thus, it is not the case that petitioner was without assistance of any legal advise.

4. In the aforesaid facts and circumstances, the impugned order cannot be said to be illegal merely because the Court had not informed the petitioner- accused about his right to be released on default bail after expiry of the 60 days period of his detention.

Dismissed.

(DEEPAK GUPTA)
JUDGE

May 27, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No