

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

CRM-M-1613-2018

Date of decision : 09.04.2024

Rahul alias Lahla and others

.....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. Rakesh Nehra, Senior Advocate (*amicus curiae*), with
Ms. Himani Anand, Advocate, and
Mr. Sauhard Singh, Advocate.

Mr. Saurav Khurana, Addl. Advocate General, Punjab.

G.S. SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. The matter has been put up on account of the fact that on 22.02.2018, the learned Single Judge, while tagging the matter with CRR-4659-2015 had raised the following issue :

“Whether the benefit of Section 167 (2) Cr.P.C. is to be granted taking into consideration the period of custody from the date accused is taken in judicial custody due to his own surrender/by any other means or from the date when remand is taken by the policy authority or the arrest?”

2. Mr. Nehra, who was appointed as *amicus curiae* vide order dated 26.02.2024, has submitted that in the FIR in question bearing No. 229 dated 13.11.2016 registered at Police Station Sadar Amritsar under Sections 302, 307, 379B, 148, 149, 427 and 120-B IPC, the petitioners stand convicted on merits, no adjudication on the issue of reference at this stage is required. It is

further brought to our notice that CRR-4659-2015 titled “**Ajit Singh alias Jeeta and another Vs. State of Punjab**” also stands dismissed as having become infructuous, vide order dated 25.02.2019, on account of acquittal of the petitioners therein.

3. Learned *amicus curiae* has thus referred to a three Judges’ Bench decision of the Apex Court in *Enforcement Directorate, Government of India Vs. Kapil Wadhawan & Anr., 2023 (2) RCR Criminal 474*, wherein it has been held that the stipulated 60/90 day remand period under Section 167 Cr.P.C., ought to be computed from the date when a Magistrate authorizes remand and in case final report is filed on or after the 61st/91st day, the accused will be entitled to default bail.

4. Resultantly, we are of the considered opinion that in the peculiar facts and circumstances of the case, no further consideration is required, in view of the law laid down by the Apex Court.

5. The present petition stands disposed of, accordingly, having been rendered infructuous.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

April 09, 2024
ndj

Whether speaking/reasoned	Yes
Whether reportable	No