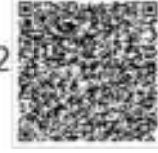


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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH**

286

**CRR-2674-2023 (O&M)  
Date of decision: 18.09.2024**

**Gaurav****...Petitioner**

**Versus**

**State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Naveen Batra, Advocate  
for the petitioner.

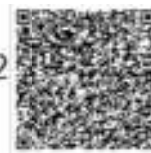
Mr. Neeraj Poswal, AAG, Haryana.

**MANISHA BATRA, J. (Oral)**

1. Prayer in this revision petition is for setting aside the order dated 20.10.2023, passed by the Court of learned Additional Sessions Judge, Faridabad, whereby the application filed by the petitioner for grant of default bail under Section 167(2) of Cr.P.C. in case arising out of FIR No. 153 dated 22.04.2023, registered under Sections 22-C and 29 of the NDPS Act, 1985 has been dismissed.

2. Brief facts of the case relevant for the disposal of the present petition are that on 22.04.2023, on receiving a secret information that the petitioner was carrying some contraband, a police team was constituted and the petitioner was apprehended. He was found in possession of 22 *Buprenorphine* Injections of 2 ml each, without any permit or license. The petitioner was arrested on 22.04.2023. The statutory period of 180 days for

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filing *challan* was to complete on 20.10.2023. Though *challan* was presented before the Court on 01.06.2023 but it was without FSL report. In the meanwhile, the petitioner moved an application for grant of default bail before the trial Court under the provisions of Section 167(2) Cr.P.C. on 20.10.2023, i.e. after the expiry of statutory period of 180 days in filing the *challan*, but the same was dismissed by the trial Court by passing the impugned order dated 20.10.2023.

3. Learned counsel for the petitioner submits that since there has been some conflict in judgments of this Court as regards the issue in hand, the matter has been referred to a Larger Bench vide order dated 16.09.2020 passed in ***Julfkar vs. State of Haryana, 2020 (4) Law Herald 3188*** to consider as to whether a *challan* filed without report of FSL would be an incomplete *challan*. Hence, keeping in view the fact that *challan* has not been presented within a period 180 days, the petitioner is entitled to get benefit of default bail.

4. *Per contra*, learned State Counsel, in terms of the status report, has vehemently opposed the prayer made by the petitioner for grant of default bail. He has submitted that in fact the *challan* was presented on 12.06.2023 i.e. within a period of 48 days of judicial remand of the petitioner. Thereafter, on receipt of FSL report, the same was submitted before the trial Court on 20.10.2023, i.e. within 178 days, which fact even finds mention in the impugned order. He has argued that as such, no case for grant of default bail to the petitioner was made out.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

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6. The petitioner is in custody since 22.04.2023. The statutory period of 180 days for filing *challan* was to complete on 19.10.2023. However, the *challan* including FSL report was not filed by that date. Subsequently, the FSL report was filed only on 20.10.2023, when the application of the petitioner for grant of default bail was dismissed by the trial Court. Hence, considering the fact that on account of conflicting judgments of this Court and the matter being subjudice before the Division Bench of this Court and while relying upon an order dated 29.11.2022 passed by coordinate Bench in ***CRR No. 1046 of 2022***, titled ***Mukesh Pal @ Makhan vs. State of Haryana***, in the opinion of this Court, it may be appropriate to extend the concession of bail in favour of the petitioner in terms of Section 167(2) of Cr.P.C., especially keeping in view that the petitioner is behind the bars since 22.04.2023, i.e. for the last about one year and five months. Relevant paragraphs of the said judgment are reproduced as below:-

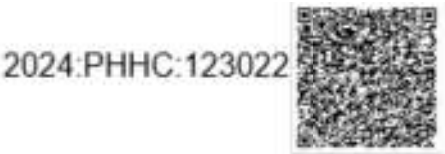
“11. As noticed above, there are some conflicting judgments of this Court and the matter stands referred to a Division Bench and is still subjudice. In this context a reference may also be made to an order of Hon’ble Supreme Court passed on 9.11.2022 in Special Leave to Appeal (Crl.) Nos. 8164- 8166/2021 titled as “Mohd. Arbaz and others Versus State of NCT of Delhi which has been cited by learned counsel for petitioner to contend that the matter as regards the *challan* in NDPS cases being incomplete on account of absence of FSL report is also being adjudicated by Hon’ble Apex Court. The said order dated 9.11.2022 of Hon’ble Supreme Court in Mohd. Arbaz’s case reads as follows :-

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“In all these petitions the question that arises for consideration is relating to the completeness of the charge sheet in accordance with law if the same is filed without the CFSL Report. The matter would require detailed consideration. In the meantime, all parties to complete their pleadings. For the present, though the issue of default bail is to be considered in the petitions since it would require some time, without reference to that aspect of the matter, keeping in view that the petitioners in SLP(Crl.) Nos. 6876- 6877/2022, SLP (Crl.) No. 532/2022 and SLP (Crl.)No. 5190/2022 are still in custody, we order that they be released on bail subject to the conditions to be imposed by the concerned trial courts. While indicating so we also take note of the objection put forth by learned counsel for the respondent-State in SLP(Crl.) No.2666/2022 who objects to the grant of bail since the petitioner therein has not surrendered despite the bail being cancelled by the High Court. Though in a normal circumstances we would have taken a serious view of the matter, keeping in view the fact that the petitioner has approached this Court immediately after cancellation of the bail and the petition has been tagged alongwith similar matters and could not be taken up, we allow the benefit of bail to the petitioner. Hence, the order cancelling bail which is impugned in SLP (Crl.) No. 2666/2022 shall remain stayed. List all these petitions on 17.01.2023.

12. In view of discussion made above, this Court deems appropriate to extend the concession of bail in terms of Section 167(2) Cr.P.C. to the petitioner while also



keeping in view the fact that the petitioner has been behind bars since the last more than 9 months.”

7. In view of the above, the present petition is allowed. The impugned order dated 20.04.2023 passed by the trial Court is set aside and the petitioner is ordered to be released on bail on his furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

8. It is, however, clarified that the prosecution would be at liberty to move for cancellation of bail/recall of this order in case the reference made to Larger Bench in *Julfkar*’s case (supra) is answered in favour of prosecution or in case, the matter pending in Hon’ble Supreme Court i.e. *Mohd. Arbaz*’s case (supra) is decided in favour of prosecution.

18.09.2024  
*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*