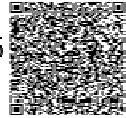


2025.PHHC:047775



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

112

CRR No. 722 of 2025 (O&M)
Date of decision: 08.04.2025

Pawan Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Abhimanu Jangra, Advocate
for the petitioner.

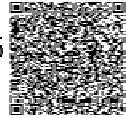
Mr. Apoorv Garg, Senior DAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant has been filed by the petitioner against the order dated 22.01.2025, passed by the Court of learned Additional Sessions Judge, Faridabad in case arising out of FIR No. 483 dated 20.07.2024, registered under Sections 21(b) and 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Ballabhgarh City, Faridabad, whereby an application filed by the petitioner under Section 187(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) seeking grant of default bail had been allowed with a condition to furnish personal as well as surety bonds within one hour of passing the said order.

2. The petitioner has been booked for commission of aforementioned offences on the allegations that on 20.07.2024, he was found in possession of 20 Injections of *Pentazocinelactate* 1 ML each and 20 bottles of ONEREX (*Codeine Phosphate and Trierolidine Hydrochloride*) Syrup 100 ml each. As revealed from the record, the petitioner had been arrested on 20.07.2024. Since *challan* was not filed within the requisite period of 180 days till 16.01.2025,

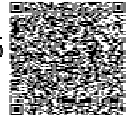
2025.PHHC:047775



therefore, in order to exercise his right for grant of default bail, the petitioner moved an application under Section 187(3) of BNSS on 22.01.2025 making prayer for grant of default bail. The Court concerned sought report of the Ahlmad concerned, as per which, neither the challan nor FSL report had been presented till 22.01.2025. Hence, the Court concerned allowed the aforesaid application and ordered for release of the petitioner, subject to his furnishing bonds in the sum of Rs. 1 Lakh with two sureties in the like amount of decent antecedents, the property being any other than a Registration Certificate of a motor vehicle and also subject to furnishing documents of permanent place of residence of the petitioner. Direction was further given to the petitioner to furnish bonds within one hour from the time of pronouncement of the order, which was so pronounced at 01:45 PM. The petitioner failed to furnish bonds by 3:10 PM and as a consequence thereof was not ordered to be released. Feeling aggrieved, the present petition has been filed by him.

3. It is argued by learned counsel for the petitioner that the impugned order is liable to be set aside to the extent to which sufficient time had not been granted to the petitioner to furnish bonds. It is stressed that the condition for furnishing bonds within one hour was a onerous condition. The petitioner was in custody and of course required some reasonable time to arrange for furnishing personal as well as surety bonds. He could not be expected to be prepared with the same at the time of pronouncement of the order itself. By imposing such onerous condition, the learned trial Court has practically made it impossible for him to comply with the condition for grant of default bail. The impugned order is patently illegal and the right created in favour of the petitioner to grant of default bail has been rendered nugatory by imposing aforementioned condition. While submitting that the right so created in favour of the petitioner was a

2025.PHHC:047775



statutory and indefeasible right and could not be circumvented by imposing such onerous condition, it is urged that the impugned order is liable to be modified to the aforesaid extent and the petition deserves to be allowed.

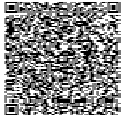
4. Status report has been filed by the respondent-State. It is submitted therein and learned Senior Deputy Advocate General, Haryana has argued that the petitioner had failed to furnish the requisite bonds in compliance of the directions issued by the Court concerned. The conditions laid down upon the petitioner cannot be stated to be onerous. Challan has since been filed. Therefore, it is urged that the petition is liable to be dismissed.

5. Rival contentions as raised by both the parties have been heard and considered.

6. It is not in dispute that the investigating agency failed to present the challan within a period of 180 days and also that on account of failure to complete the investigation and file the chargesheet within stipulated time as prescribed under Section 187(3) of BNSS, the Court concerned had allowed the application moved by the petitioner for grant of default bail. It is well settled proposition of law that if the chargesheet is not filed within the time stipulated and the accused files a bail application and offers to furnish bail, he is said to have availed the indefeasible right of being released on bail and this right shall not be defeated by subsequent presentation of the chargesheet. The only question that falls for consideration before this Court is as to whether the condition imposed by the Court concerned for furnishing bonds within one hour from the time of passing the impugned order is reasonable or liable to be quashed?

7. As mentioned above, the order dated 22.01.2025 was pronounced at 01:45 PM granting liberty to the petitioner to furnish bonds by 02:45 PM and

2025.PHHC:047775



since by 03:10 PM, he had not been able to furnish the same, the application was disposed of. Due to non-presentation of challan within the stipulated time, the petitioner had undisputedly become entitled to be released on default bail. Once this right had been created in his favour, then in the considered opinion of this Court, the Court concerned should have given some reasonable time to the petitioner to furnish bonds. The condition of furnishing the bonds within one hour was, however, unreasonable, harsh and excessive on the face of it and obviously was to frustrate the very object of grant of bail. In the considered opinion of this Court, restriction imposed by the Court concerned of furnishing bonds was unnecessary, unreasonable and was not called for at all since it was practically impossible for the petitioner to arrange for two sureties within such short span of time. In view thereof, the impugned order is certainly liable to be modified. Accordingly, the petition is allowed and the impugned order is modified to the extent prayed for. The petitioner is directed to be released on bail, subject to his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

08.04.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No