

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1367-2023 (O&M)
Reserved on: 01.08.2025
Pronounced on: 28.08.2025

Harbans @ Bansa

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Atul Gaur, AAG, Haryana.

ANOOP CHITKARA, J. (ORAL)

FIR No.	Dated	Police Station	Sections
85	14.03.2022	Ellenabad, District Sirsa	17/29 of NDPS Act

Aggrieved by the rejection of default bail on non-filing of FSL report along with the charge-sheet to the petitioner in FIR captioned above, the petitioner had come up before this Court by filing the present Criminal Revision Petition under Section 397 read with 401/167(2) CrPC.

2. As per the investigation conducted so far, the drug involved in this case is opium, and the quantity is *prima facie* commercial, as such, the rigorous of Section 37 of the NDPS Act come into place.

3. However, despite the quantity being *prime facie* commercial, the police did not obtain the FSL report or the FSL laboratory did not provide its report within the statutory period of 180 days, and consequently, the officer-in-charge of the police station had filed a police report without annexing the FSL report.

4. It would be appropriate to refer to reply dated 03.07.2023 filed by the concerned Deputy Superintendent of Police, Sirsa. In paragraph 04 of the reply, it was duly mentioned that the FSL report was not initially received until 04.10.2022. However, when the FSL report was received on 04.10.2022, the same was filed in the trial Court on 06.10.2022.

5. Because of non-filing of the FSL report with the police report, the petitioner, along with co-accused Shamsher Singh, had filed a default bail application before the trial Court on 12.09.2022 i.e. before the presentation of the FSL report.

6. Vide order dated 13.09.2022, the said application was dismissed by the trial Court. The reason for dismissal was that the investigation is complete and if FSL report is not available, the police cannot be blamed for that and certainly, the same would be filed straightway in the Court, for which, investigation was not required. Feeling aggrieved, the petitioner had come up before this court by filing the present Criminal Revision Petition in the year, 2023.

7. Vide order dated 17.08.2023, a co-ordinate Bench of this Court had released the petitioner on interim default bail. The said order is continuing till date and there is no allegation of any default in appearance before trial Court non-violation of any of the conditions by the petitioner.

8. Counsel for the petitioner seeks bail also on the ground of parity with his co-accused Shamsher Singh @ Shera, to whom a coordinate Bench of this Court, vide judgment dated 18.04.2023 passed in CRR-2136-2022 had granted default bail. The said order was subject to the condition that if in the matter pending before the Division Bench of this Court, if DB comes to the conclusion that FSL report was not required while filing challan and same is complete without FSL, then the State shall be at liberty to file an appropriate application for cancellation of bail.

9. Although various questions of law have been raised by the petitioner as well as by the State but the main issue before this Court is that once a co-ordinate Bench of this Court had granted default bail to a similarly placed co-accused then there is no reason for this Court to take a different view. The reasoning given by the co-ordinate Bench was that in case the law is settled that a police report in the absence of FSL report would be a complete report which would not attract the provisions of 167(2) CrPC now 187 BNSS. It shall be permissible for the State to file an application for cancellation of bail.

10. After that, even the Hon'ble Supreme Court has referred a similar matter to a Larger Bench in *Directorate of Enforcement Versus Manpreet Singh Talwar, SLP (Criminal) No.5724 of 2023*.

11. It has been brought to the notice of this Court that the said matter is still pending and this Court also did not find any judgment pursuant to final outcome of such reference.

12. After considering the above said discussions and also in the light of the fact that the co-ordinate Bench of this Court had granted default bail to one of the co-accused, whose bail was also rejected by the Sessions Court vide a common order, this Court proposes to dispose of the present petition by confirming the initial interim order granted by a co-ordinate Bench of this Court on 17.08.2023, by making it absolute on the same conditions.

13. It is clarified that if the reference pending before the Hon’ble Supreme Court comes to a conclusion or gives a finding that the FSL report is not required to be a part of the police report, then it shall be permissible for the State to file an application for cancellation of bail before the trial Court which shall be competent to cancel the bail granted by this Court. Counsel for the petitioner also has no objection to such a condition.

14. **The present petition is allowed to the extent mentioned above.** All pending miscellaneous applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

28.08.2025
Jyoti-II

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>