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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

102-1

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State of Haryana

....Petitioner

V/s

Amarjeet Singh

....Respondent

Date of decision: 10.03.2026**Date of Uploading : 10.03.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Ms. Mahima Yashpal Singla, Senior DAG Haryana.

Mr. Mayur Karkra, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed by the State under Section 439(2) read with Section 482 of Cr.P.C. seeking cancellation of regular bail granted under Section 167(2) of Cr.P.C. to the respondent vide order dated 09.09.2020 (Annexure P-1) passed by Additional Sessions Judge, Kaithal in FIR No.25 dated 11.02.2020 registered for offences punishable under Sections 21C and 22-C, 29-61-85 of NDPS Act, 1985 at Police Station Cheeka, District Kaithal.
2. The relevant portion of the order passed by Additional Sessions Judge, Kaithal, reads as under:

“10. In view of the above discussed facts and circumstances of the case and in the light of law referred in above, without commenting on merits of case, instant bail application is allowed. Accused-applicant Amarjeet Singh is granted the relief of bail on his furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of this Court. Papers pertaining to the bail application be attached with the main case filed.”



3. Learned State counsel has iterated that the present petition has been filed against the impugned order granting default bail to the respondent. According to learned State counsel, the default bail has been granted to the respondent primarily on the ground that the challan has not been filed alongwith the FSL report and therefore, the Court below treated it to be an incomplete challan. According to learned State counsel, the said issue is still pending consideration before the Hon'ble Surpeme Court in SLP (Crl.) No.15293-2023 titled ***Hanif Ansari vs. State (Govt of NCT of Delhi)***, relevant whereof reads thus:

“The point to be addressed in this matter is as to whether nonfurnishing of the FSL report with the chargesheet, within the prescribed time, would entitle an accused to default bail on the ground that it would be an incomplete chargesheet without such a report. The High Court in the impugned judgment rejected the bail plea of the petitioner, holding, inter- alia:-

“9. A Coordinate Bench of this Court in Mohd. Arbaz v. State (NCT of Delhi), 2020 SCC OnLine Del 2542, had taken a view that the accused would not be entitled to statutory bail merely because the FSL Report was not part of the chargesheet. An appeal against the said judgment is pending before the Supreme Court.

10. The Division Bench of this Court in Kishan Lal v. State, 1989 SCC OnLine Del 348, has held that it is not mandatory to file the FSL Report along with the chargesheet. The relevant observations are set out below: “19. We thus hold that under Section 173(2) of the Code there is no mandate that a police report must enclose the document purporting to be a report under the hand of a Government scientific expert. In the present cases, as cognizance of the offences taken by the Magistrate was proper and valid, no order releasing the petitioners on bail under Section 167(2) of the Code was required to be passed.”

11. A Coordinate Bench of this Court in Suleman v. The State (NCT of Delhi), 2022 SCC OnLine Del 2346, has held that non filing of the FSL Report with the chargesheet would not entitle the



accused to grant of statutory bail. Relevant observations are set out below:

“14. At present, the settled law persists in the view that non filing of FSL Report with the charge sheet does not fall within the realms of Section 173(2) of the Cr.P.C so as to consider it as "incomplete report". In the present case although FSL Report has not been filed, however, the charge sheet was already filed on 03.03.2021 within the time period as per law. Further, the amount of quantity recovered from the accused is of commercial nature barring the accused from bail under Section 37 of the NDPS Act.”

12. The aforesaid judgments were followed by another Coordinate Bench of this Court in Hashmat Mohammadi (supra), in which the grant of statutory bail was rejected by the Coordinate Bench despite non-filing of the FSL Report with the chargesheet.” In the special leave petition filed by said Mohd. Arbaz [SLP (crl.) Nos.8164-8166/2021], interim bail was granted to the petitioner therein. A Co-ordinate Bench of this Court in the case, Central Bureau of Investigation vs. Kapil Wadhawan and Anr., 2024 INSC 58 dealt with the question of an incomplete chargesheet and its impact on the bail plea of an accused. It has been held and observed in this judgment:-

“23. The benefit of proviso appended to sub-section (2) of Section 167 of the Code would be available to the offender only when a chargesheet is not filed and the investigation is kept pending against him. Once however, a chargesheet is filed, the said right ceases. It may be noted that the right of the investigating officer to pray for further investigation in terms of sub-section (8) of Section 173 is not taken away only because a chargesheet is filed under sub-section (2) thereof against the accused. Though ordinarily all documents relied upon by the prosecution should accompany the chargesheet, nonetheless for some reasons, if all the documents are not filed along with the chargesheet, that reason by itself would not invalidate or vitiate the chargesheet. It is also well settled that the court takes cognizance of the offence and not the offender. Once from the material produced along with the chargesheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the



further investigation qua the other accused or for production of some documents not available at the time of filing of chargesheet would neither vitiate the chargesheet, nor would it entitle the accused to claim right to get default bail on the ground that the chargesheet was an incomplete chargesheet or that the chargesheet was not filed in terms of Section 173(2) of Cr.P.C.”

Learned counsel for the petitioner relied on certain orders passed by this Court in (i) SLP(Crl.)Nos.8164-8166/2021 (Mohd. Arbaz & Ors. vs. State of NCT of Delhi) on 13.12.2021, (ii) SLP (Crl.) No.12200/2023 (Pankaj Gupta vs Narcotic Control Bureau) on 04.12.2023, (iii) SLP (Crl.) No.11628/2022 (Divyas Bardewa Vs. Narcotics Control Bureau) on 01.05.2023 and (iv) SLP (Crl.) No.8610/2023 [Arif Khan Vs. State (Govt. Of NCT of Delhi)] on 28.07.2023.

The lead matter on this point is the case of Directorate of Enforcement Vs. Manpreet Singh Talwar [SLP(Crl.) No.5724 of 2023], which is still pending before a three-Judge Bench of this Court. The case of Mohd. Arbaz (supra) stands tagged with this matter. There are other orders also passed by this Court tagging, where similar questions of law are involved. But interim bail has not been granted in every tagged petition. It has been declined in the cases of Pabitra Narayan Pradhan - vs- The State (NGT) of Delhi [SLP (crl.) Diary No.43791 of 2023], Shankar @ Shiva Maheshwar Savai -vs- The State of Gujarat (order dated 03.03.2023 in SLP (Crl.) No.2562/2023) but in none of these cases, it has been finally determined as to whether failure on the part of the prosecution to include the FSL report along with the chargesheet in relation to offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 would automatically entitle the accused to default bail or not. Further, certain other factors like the quantity of the contraband articles being seized and period of incarceration were considered in the aforesaid orders while granting interim bail to the petitioner(s)/applicant(s).”

Thus, keeping in view the aforesaid factual *milieu* of the case in hand, cancellation of the regular bail granted to the respondent is entreated for.

4. Learned counsel appearing for the respondent has iterated that the impugned order passed by the Court below rightly considered the fact



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that the final report under Section 173(2) Cr.P.C. has been filed without the report of the Chemical Examiner/ FSL. Furthermore, no application under Section 36-A(4) of the NDPS Act has been moved by the prosecution seeking the extension of time for producing the said report. Thus, the dismissal of the petition in hand is prayed for.

5. I have heard learned counsel for the rival parties and have perused the record.

6. The FIR in question was registered on 11.02.2020 whereinafter the respondent has been granted the concession of the default bail on 09.09.2020. Challan stands filed on 10.08.2020 wherein total 22 prosecution witnesses have been cited and out of which 08 have been examined till now. There is no allegation of misuse of concession of the default bail granted to the petitioner till date. The matter is still pending adjudication before the Hon'ble Supreme Court regarding the issue as to whether the challan filed without the FSL report is required to be treated as complete or not and as to whether the default bail is required to be granted in such cases or not.

7. Keeping in view the entirety of the factual *milieu* of the case in hand; especially the question of law still being pending adjudication before the Hon'ble Supreme Court, the default bail having been granted to the respondent on 09.09.2020, trial proceedings continuing and no allegations of misuse; this Court is not inclined to entertain the present petition at this stage. The same is hereby dismissed. Liberty is, however, reserved in favour of the State to re-file after adjudication of question of law by the Hon'ble Supreme Court in SLP No.15293/2023, in case cause of action so

ensues.



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8. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

March 10, 2026
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No