

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1018-2020(O&M)

Date of decision:-21.7.2020

Subhash Chander

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Pankaj Bali, Advocate
for the petitioner.

सत्यमेव जयते

H.S. MADAAN, J.

This revision has been brought by petitioner – Subhash Chander, an accused in case FIR No.66 dated 18.3.2020 for the offences under Sections 7, 7A of P.C. Act, registered at Police Station Nissing, Karnal feeling aggrieved by the order dated 3.7.2020 passed by Additional Sessions Judge(Duty), Karnal vide which he has refused to grant bail to the petitioner under Section 167(2) Cr.P.C.

Briefly stated, facts of the case are that petitioner Subhash Chand @ Subhash Chander was arrested on 19.3.2020 in the case details

of which are mentioned above. On account of outbreak of Corona Pandemic in view of the directions issued by the Apex Court in Suo Motu Writ Petition No.1/2020 – In RE: CONTAGION OF COVID-19 VIRUS IN PRISONS and as per the policy dated 24.3.2020 of the Hon'ble High Powered Committee, vide order dated 31.3.2020 the petitioner was released on interim bail for a period of 45 days. Such period expired on 14.5.2020. In view of subsequent direction dated 5.5.2020 by the Hon'ble High Powered Committee, interim bail was further extended for six weeks up to 25.6.2020 and then for 10 weeks w.e.f. 25.6.2020. The petitioner is required to surrender at District Jail on 4.9.2020.

The petitioner had filed an application under Section 167(2) Cr.P.C. for the reason that the investigating agency had failed to file final police report within 60 days of his arrest, thus making him entitled to be released on bail. That application was dismissed by learned Additional Sessions Judge (Duty), Karnal vide order dated 3.7.2020. The relevant part of the order is contained in para No.11 of the judgment, which for ready reference is being reproduced as under:

11. In above a situation, this court is of the opinion that petitioner is not entitled for default bail u/s 167(2) Cr.P.C because petitioner was arrested on 19.03.2020 and he was granted interim bail on 31.03.2020 due to outbreak of Covid-19 and such interim bail now stands extended till 03.09.2020. In this way, accused remained in custody for 13 days only when he was released from custody on interim bail. Such interim bail was granted due to outbreak of Covid-19 as per compliance of instructions ibid object of which

was to prevent petitioner from infecting with coronavirus. It appears that same yardstick also applied in favour of investigating agency which was also prevented from expediting the investigation process due to outbreak of Covid-19. Although prescribed period of 60 days to file final police report ended on 18.05.2020 and police filed such final report on 25.06.2020, but investigating agency had still 47 days more to conclude investigation and final report. Such period (13 + 47) is still available upto 04.07.2020. Obviously petitioner is not entitled for default bail.

Feeling aggrieved by the said order, the petitioner has knocked at the door of this Court by way of filing the present criminal revision.

Notice of motion.

Mr. Apoorv Garg, DAG, Haryana, accepts notice on behalf of the State and opposes the petition.

I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the petition.

Section 167(2) Cr.P.C. is meant to ensure that the investigation in the case is concluded promptly and challan is filed in the Court thereafter at the earliest so that an accused in a criminal case is not made to languish in the jail for a very long time. This provision is meant to ensure that the investigating agency does not show callousness and lethargy in doing the investigation making them aware of the fact that in

case investigation is not completed and challan is not filed within 90 days of arrest of the accused, where the investigation relates to an offence punishable with death imprisonment for life or imprisonment for a term of not less than 10 years and within a period of 60 days, where the investigation relates to any other offence, then the accused would become entitled to be released on bail and then the Investigating Officer at fault would be made to explain his acts and omissions in carrying out the investigation within that time frame.

Now in the instant case after being arrested on 19.3.2020, the petitioner on account of outbreak of COVID-19 had been granted interim bail vide order dated 31.3.2020, which stood extended from time to time and he is still on bail, now required to surrender in jail on 4.9.2020. The petitioner remaining behind bars for a period of less than two weeks till date cannot cry foul and ask for bail in terms of Section 167(2) Cr.P.C. The petitioner just want to have dual benefit enjoying interim bail, at the same time asking for concession of bail under Section 167(2) Cr.P.C. He is certainly not entitled to such concession. Learned Additional Sessions Judge, Karnal has passed a detailed and well reasoned order, which does not suffer from any illegality or infirmity.

The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise.

In the present case, I do not find any such illegality or infirmity with the impugned order much less apparent on the face of it.

