

BA-277-2021 Manjit Singh Vs. State of Punjab

Present. Sh. S.P. Bajaj, Advocate counsel for applicant.
APP for the State.

This is an application under Section 167 (2) of Cr.P.C. filed on behalf of applicant/accused Manjit Singh in FIR no.108 dated 24.8.2021 under Section 25 of Arms Act Act registered at P.S. Sadar Jalalabad.

The learned counsel for applicant/accused submits that ever since the accused was arrested in the present case, a period of more than 60 days has passed but no challan has been presented and therefore, accused has become entitled to default bail.

Notice of the bail application was given to APP for the State but he did not file any reply. However, learned APP for the State contested the bail application orally.

Report of Ahlmad was also called who reported that accused was arrested on 24.8.2021 and produced in the court on 25.8.2021 and since then he is in custody. No challan has been presented till date.

I have considered the contentions of learned APP for the State and learned defence counsel.

The perusal of remand papers shows that police party headed by Inspector Sunil Kumar was present at T Point Dhani Maan Singh Dakhli village Jodha Bhaine where on the basis of secret information, applicant/accused was arrested. He was found in possession of a Pistol, 2 Magzines and 37 live cartridges. He was produced in the court on 25.8.2021 and since then he has been in custody. According to Section 167 (2) (a) of Cr.P.C., a Magistrate shall not authorize the detention of accused person in custody for a total period exceeding 90 days, where investigation relates to the offence punishable with death, imprisonment for life or

imprisonment for a term not less than 10 years and 60 days where the investigation relates to any other offence. On the expiry of said period of 90 days or 60 days as the case may be, the accused becomes entitled to be released on bail. It is contention of learned defence counsel that offence under Section 25 of Arms Act is punishable with imprisonment upto 7 years and thus the accused is entitled to be released on default bail. This court does not find any substance in the contention of learned counsel for applicant/accused as the Arms (Amendment) Act 2019 has come into force on 13.12.2019, whereby Section 25 of the Principal Act has been amended as under:-

(i) in sub-section (1),

(a) in clause (a), for the word “manufactures”, the words “manufactures, obtains procures,” shall be substituted;

(b) in clause (b), after the words “convert an intimation fire arm into a fire arm” the words and figures or convert from any category of fire arms mentioned in the Arms Rules, 2016 into any other category of firearms shall be inserted;

(c) in the long line, for the words, three years but which may extend to seven years”, the words seven years but which may extend to imprisonment for life shall be substituted;

The bare perusal of aforesaid amendment reveals that for the word “manufactures”, the words “manufactures, obtains procures,” have been substituted. Similarly for the words “three years but which may be extended upto 7 years”, “the words 7 years which may extend to life have been substituted”. In the FIR there are specific allegations that Pistol in question was got procured by Harmesh Singh from across the International Border and it has been given to applicant/accused Manjit Singh. In this way, applicant has prima facie got procured aforesaid Pistol. Since the

offence under Section 25 of the Arms Act punishable with sentence which may extend to imprisonment for life, the investigating agency can complete the investigation within a period of 90 days and not 60 days as claimed by the learned counsel for accused. Since the period of 90 days from the date of arrest of accused has not passed, he is not entitled to indefeasible right of default bail. Accordingly bail application filed by applicant/accused ***Manjit Singh*** stands dismissed. Bail application be attached with the remand papers.

Dated: 27.10.2021

Deepak Kumar

Stenographer Gr.II

Sd/-

(Ram Pal), PCS

CJJD-cum-JMIC

Jalalabad(W)

UID NO. PB-0501