

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-30678 of 2015

Date of Decision: November 2, 2015

Kartar

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. J.S. Bedi, Sr. Advocate with
Mr. S.K. Sharma, Advocate
for the petitioner.

Mr. Deepak Sabharwal, Addl.A.G., Haryana.

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M.M.S. BEDI, J.

Petitioner seeks concession of interim temporary bail in order to enable him to attend to his wife who is suffering from heart ailment.

State counsel on the instructions of Inspector Sumit Kumar informs that one of the brother of the petitioner involved in a large number of cases has absconded while on parole whereas the petitioner's wife has left the hospital against medical advice as per the record of PGIMS, Rohtak.

Counsel for the petitioner has submitted that the petitioner cannot avail the concession of attending his wife in custody as he has to arrange money to enable his wife to get treatment for ailment of the heart.

Learned State counsel has seriously objected to the grant of interim temporary bail to the petitioner, besides the above said conduct of his brother. He has argued that the petitioner is involved in FIR No. 326 of 2011, a murder case registered at Police Station Bahadurgarh and that on an earlier occasion also, he had been granted interim bail in FIR No. 69 of 2005 and he had absconded.

Counsel for the petitioner informs that the petitioner was as a matter of fact, acquitted in the said case.

Learned State counsel has also argued that on account of availability of three daughters of the petitioner and one son, two brothers Ram Chander and Krishan and their wives, it is not necessary that the petitioner be released on interim bail to attend his ailing wife.

Counsel for the petitioner has clarified that son of the petitioner is 7 years old and other daughters are not more than 12 years of age. The other brothers are staying separately.

I have heard learned counsel for the parties at length and tried to strike a balance between the right of the petitioner for liberty and the apprehension of the State of petitioner getting an opportunity to abscond. The petitioner had been given permission to attend his wife in custody on the particular occasions when his presence was required by the side of his wife

but Mr. Bedi, learned senior counsel for the petitioner has submitted that it is not only the presence of the petitioner as a support to his wife which is required but it is a case where he has to make necessary arrangements for money to get his wife treated, there being no other person available for said purpose.

I have considered the contentions of learned counsel for the petitioner and have in my mind the law laid down in **Sanjay Chandra Vs. CBI**, (2012) 1 SCC 40, that the object of refusal of bail is not to order imprisonment before conviction by way of substantial punitive measure but the gravity of the offence, the chances of absconding and misuse of the liberty under the orders of interim bail can also not be ignored. The precedent cited regarding misuser of liberty by petitioner and his brother in criminal cases would prevent the grant of an interim relief to him though it has been sought for, for a moral and on reasonable medical ground.

Petition is dismissed. However, it is ordered that in case petitioner request for attending to his wife on a particular date in order to enable him to be near to her at the time of any medical treatment, he could move an application alongwith relevant record before the Jail Superintendent, who will subject to his objective satisfaction, permit the petitioner to visit his wife in custody from morning till evening on any day at his own expenses.

November 2, 2015
sanjay

(M.M.S.BEDI)
JUDGE