

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

CRM-M No.12660-2017

Date of Decision: 19.04.2017

Daljit Singh @ Biloo

.....Petitioner

vs.

State of Punjab

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vinay Gupta, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J.

This is the second petition before this Court seeking the concession of anticipatory bail to the petitioner, upon FIR No. 218 of 07.11.2015 having been registered against him for the alleged commission of offences punishable under Sections 22 and 61 of the NDPS Act, Police Station City Ferozpur. He was granted interim bail by the learned trial Court on 02.01.2016, till the receipt of the report of the Chemical Examiner, to determine as to whether the 1200 tablets of Alprazolam stated to have been recovered from him, amounted to commercial quantity or not.

The report was received on 19.09.2016, showing that the recovery was of commercial quantity of the contraband.

The interim bail granted to the petitioner was cancelled vide an order of the learned trial Court dated 20.01.2017, observing therein that (other than the fact that the 1200 tablets of Alprazolam was commercial quantity), the petitioner had also been filing applications seeking exemption from

personal appearance since four dates earlier and even on that date, i.e. on 20.01.2017, a similar application had been filed, stating therein that due to a sudden cardiac attack, he was going for treatment. The said application was not supported by any medical report to that effect.

Consequently, the bail and surety bonds furnished by the petitioner were ordered to be forfeited and non-bailable warrants were issued for his arrest and production before the trial Court.

Thereafter, the petitioner filed CRM-M 7713 of 2017 before this Court, seeking the concession of anticipatory bail, in which this Court directed learned counsel appearing for him to obtain documents showing that the petitioner had actually suffered a cardiac attack on the date that his bail bonds were ordered to be forfeited, i.e. on 20.01.2017.

On 17.03.2017 learned counsel for the petitioner made a statement in that petition that as he was unable to obtain any document in support of the aforesaid contention, he may be permitted to withdraw the petition.

Consequently, CRM-M 7713 of 2017 was dismissed as withdrawn on 17.03.2017.

Now the present petition has been filed, in which it is stated that the petitioner is about 50 years old and that he suffered a heart attack in the year 2014, for which he was still under treatment from the Dhir Hospital, Ferozepur City.

In support of the aforesaid contention, a photocopy of the OPD record from that hospital has been annexed with the petition, showing therein that on 01.03.2016 the petitioner complained of a pain in the chest and was advised ECG and some medicines were prescribed. Thereafter, there are

various entries starting from 02.04.2016 till 16.07.2016, showing various medicines prescribed, including an advice given for intravenous fluid administration, on 10.06.2016.

Other than that, it has been stated in the petition that on 19.01.2017 the petitioner enquired from his counsel as to whether the chemical examiners' report has been received or not and was allegedly told that it has not still been received.

It is further contended that on 20.01.2017, i.e. the date on which the bail bonds of the petitioner were forfeited, he was called by the doctors for a check up and accordingly he had gone for the same after making an application seeking exemption from personal appearance on that date.

Learned counsel for the petitioner has contended that it was wholly on a misconception that the petitioner had earlier filed a petition (CRM-M 7713 of 2017), stating therein that he had suffered a cardiac attack, whereas actually the situation is as stated hereinabove. He further submits that nothing being recoverable from the petitioner and he having already been granted the concession of bail earlier, in the entire set of circumstances, he deserves the concession of anticipatory bail too.

Having heard learned counsel, I am unable to agree with the contentions raised, in view of the fact that it is seen that even in the application moved before the learned trial Court seeking exemption from the personal appearance of the petitioner on 20.01.2017, it is stated that the petitioner had a "sudden cardiac attack" for which he was going for treatment to the Appollo Hospital, Jalandhar.

That not having been accepted by the trial Court, the order dated 20.01.2017 was passed, but even thereafter, despite opportunity given when

he had filed CRM-M 7713 of 2017, to produce medical evidence to show that he had suffered a cardiac attack, till date no such evidence has been produced even from the Appollo Hospital, Jalandhar. Hence, the OPD record for the period from March 2016 to July 2016 is of no help to the petitioner in this regard.

If he had not taken a plea continuously, first before the trial Court and thereafter before this Court, and had actually produced the medical record to show that he was a heart patient, even if he had not had a cardiac attack, perhaps his case for anticipatory bail could have been looked at sympathetically. However, he having tried to hoodwink first the trial Court and then this Court, and even now not having produced any record to show that from January to April this year, he has undergone any kind of treatment for a heart ailment, I see no reason to entertain this petition, which is consequently dismissed.

However, it is made clear that upon the petitioner surrendering before the trial Court, if he produces authentic medical documents to show that he is actually a heart patient who may be adversely affected by being taken into custody, the learned trial Court would consider any such application on its own merit, after satisfying itself of the authenticity of the medical record, if it is produced.

(AMOL RATTAN SINGH)
JUDGE

April 19, 2017
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Whether speaking/reasoned	Yes
Whether Reportable	No.