

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M No.22749 of 2018
Decided on: 23.08.2018**

Rajender

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. K.S. Dhaliwal, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.46 dated 21.02.2017, for offence punishable under Sections 20/21/61/85 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station Julana, District Jind.

Learned counsel for the petitioner has submitted that the petitioner was not named in the FIR and his name has surfaced in the disclosure statement of co-accused namely Sushil. It is further submitted that even as per the allegation in the FIR, when a notice under Section 50 of the NDPS Act was given to the co-accused – Sushil, it was mentioned that he has a right to be searched either before a Gazetted Officer or before the Investigating Officer and no such offer was given that he has a right to be searched before a Magistrate.

Learned counsel for the petitioner has further argued that

the petitioner is suffering from serious illness as per the Certificate issued by the Medical Officer, District Prison, Karnal dated 20.03.2018 and he has been diagnosed with the following disease:-

“Diabetes Type-II with Gangrene in Right upper limb till level of mid as present. Surgery for amputation of the Gangrene affected area was performed on 12.10.2017 and Daily ASD done. Revised amputation was again performed (Right Shoulder Disarticulation). Post amputation treatment was done at PGIMS, Rohtak and when the Stump got healthy Twenty (20) stitches were done. The U/T prisoner was discharged on 11.11.2017. Presently the U/T prisoner is admitted District Jail Hospital, Karnal. He is taking medicines for Diabetes Type-II & his blood sugar level is under control presently.”

Learned counsel for the petitioner has further submitted that considering the medical condition of the petitioner, he has already been granted the concession of regular bail in another FIR No.785 dated 11.09.2017 registered under Section 20 of the NDPS Act at Police Station Model Town, Panipat, vide order dated 09.05.2018 passed in CRM-M No.45149 of 2017.

Learned counsel for the State has filed the Custody Certificate today in the Court and has submitted that as per the Custody Certificate, the petitioner apart from the aforesaid FIR No.785 dated 11.09.2017, is not facing any other trial, in which he has been granted the concession of regular bail by this Court.

Without commenting anything on merits of the case, considering the fact that it will be a debatable issue to be decided during the course of trial whether the compliance of Section 50 of the

NDPS Act was made; the petitioner has also been granted the concession of regular bail in another FIR No.785 dated 11.09.2017; conclusion of the trial will take some time and also in view of the fact that the medical condition of the petitioner, which has already been noticed in the order dated 09.05.2018, this petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/ surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

23.08.2018
yakub

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