

Sr.No.207

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

CRM-M-32359-2018(O&M)

Date of decision:10.12.2019

Harpal Kaur

... Petitioner(s)

versus

State of Punjab

... Respondent (s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner.

Mr. Amitoj Singh Dhaliwal, DAG, Punjab

Jasgurpreet Singh Puri, J.(Oral)

Present petition has been filed for seeking regular bail in FIR No.3, dated 14.01.2011 for the offences punishable under Sections 302, 148, 149 IPC, registered at Police Station Khem Karan, District Tarn Taran.

Learned counsel for the petitioner contends that there were 6 accused in the FIR, out of which during the investigation of the case, 4 of them were declared innocent and the remaining 2 accused namely, Harjit Singh and Jaswant Singh have since been convicted by the learned Trial Court. So far as the present petitioner, namely, Harpal Kaur is concerned, she was later on summoned under Section 319 Cr.P.C on the presentation of supplementary challan by the Police. It has been contended by the learned counsel for the petitioner that perusal of the order dated 03.05.2012 (Annexure P-3) shows that the role attributed to the petitioner is only raising of lalkara. The said order is an order wherein the petitioner was summoned for, aforesaid offences.

It is also a case of the petitioner that the petitioner is suffering

from HIV +ve and this fact has been admitted by the learned State counsel on instructions from ASI Balwinder Singh and even in a short affidavit dated 11.09.2018 filed by Sulakhan Singh, Deputy Superintendent of Police, Sub Division Valtaha, Camp at Bhikhiwind, District Tarn Taran, it has been stated that the petitioner is a registered HIV patient and is under treatment since 01.05.2013. Another affidavit by Rajiv Kumar Arora, Deputy Superintendent, Central Jail, Amritsar alongwith report of Senior Medical Officer, Central Jail, Amritsar has also been filed which shows that she is being prescribed oral medication for HIV care and that it is also stated in it that such medicines can be administered in the jail as well.

Learned counsel for the petitioner further states that petitioner is in custody since 10.03.2018 which is almost 1 year and 9 months and it will be in the interest of justice, in case she is enlarged on bail especially on the fact that no role is attributed to her as she raised only lalkara and she is acutely suffering from HIV +ve and has grown very weak.

Per contra, learned State counsel has submitted that even if the petitioner was summoned by the presentation of supplementary challan and by way of application filed by the prosecution under Section 319 Cr.P.C and that she is in judicial custody since 10.03.2018, that would not entitle her for concession of regular bail as the subject matter of the case is very serious in nature and also two of the accused were tried have been convicted by the learned Trial Court. He has further submitted that out of 22 witnesses, 5 witnesses have been examined.

After hearing, the learned counsel for the parties and perusing the available record, this Court is of the considered view that it is a case where the petitioner is admittedly suffering from HIV +ve from the last 6

years and the reasoning given by the learned counsel for the petitioner that she is becoming weak and she requires much more treatment, inspires some confidence in this argument raised by learned counsel for the petitioner.

A perusal of the order dated 03.05.2012 (Annexure P-3) wherein the petitioner was summoned in pursuance of application filed by the prosecution under Section 319 Cr.P.C, shows that the role attributed to the petitioner is prima facie a lalkara.

It is settled law that while considering the grant of bail, a Court has to maintain balance between the right and liberties of the applicant and also on the other hand, it may not hamper the investigation or likely to temper the witnesses etc. The Court has to strike a balance between the two and then consider the case for granting of bail in accordance with the facts and circumstances of each case as there can be no straight jacket formula for the grant of bail.

Keeping in view the above facts and without expressing any opinion on the merits of the case, the present petition is allowed. After considering the totality of the circumstances of the case, this Court is of the considered opinion that it would be in the interest of justice, to admit the petitioner to bail. Petitioner is granted the concession of regular bail. She be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the concerned Trial Court/Duty Magistrate.

10th December, 2019
Shivani Kaushik

[JASGURPREET SINGH PURI]
JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*