

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

**CRM-M-4343-2020 (O & M)
Date of decision : 11.08.2020**

Balraj Jagdish Chopra

.....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Gautam Dutt, Advocate
for the applicant-petitioner.

Mr. S.P.S. Tinna, Addl. A.G., Punjab
for the respondent-State.

Mr. R. Kartikeya, Advocate
for the complainant.

ARUN KUMAR TYAGI, J.

(The case has been taken up for hearing through video conferencing.)

CRM-18815-2020

For the reasons mentioned in the application, the same is allowed and copy of order dated 19.06.2020 Annexure P-10 and copy of order dated 15.07.2020 Annexure P-11 are taken on record and the petitioner is exempted from filing the certified copies of the same.

Registry is directed to tag the aforesaid documents (Annexures P-10 and P-11) at appropriate place and paginate the paper book.

CRM-19363-2020

For the reasons mentioned in the application, the same is allowed and copies of orders Annexure R-2/1 to Annexure R-2/4 are taken on record and the petitioner is exempted from filing the certified copies of the same.

Registry is directed to tag the same at appropriate place and paginate the paper book.

CRM-14982-2020

The petitioner has filed the present application under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for preponement of the date of hearing of the main petition i.e. CRM-M-4343-2020 seeking grant of regular bail fixed for 27.08.2020 and for grant of interim bail on medical grounds.

Upon notice of the instant application vide order dated 16.07.2020, learned State Counsel and learned Counsel for the complainant have no objection, if the application is allowed qua prayer for preponement of the main petition i.e. CRM-M-4343-2020 fixed for 27.08.2020.

In view of the facts and circumstances of the case and no objection by learned State Counsel and learned Counsel for the complainant, the application is allowed qua prayer for preponement of the main petition and the petition is preponed and is with consent taken up for hearing today itself, alongwith application for interim bail in the alternative on medical grounds.

CRM-14982-2020 in/and CRM-M-4343-2020

The prayer in the present second petition CRM-M-4343-2020 is for grant of regular bail and the prayer in CRM-14982-2020 is for grant of

interim bail in case FIR No. 33 dated 13.04.2015 under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC') registered at Police Station Khamanon, District Fatehgarh Sahib to which Sections 464, 467 and 471 of the IPC were added later on.

Learned Counsel for the applicant-petitioner has submitted that the petitioner has been falsely implicated in the case. The petitioner is in custody since 29.12.2018. Challan has already been filed and charges have been framed but there is no progress in the trial. The petitioner is more than 50 years of age and is suffering from chronic diabetes with sugar level 385 to 405 and the doctors have advised the petitioner for insulin injections. In addition thereto, the petitioner is also having heart problem and is also asthmatic patient and is vulnerable to the infection of Covid-19. Name of the petitioner was included by the jail authorities in the list of persons eligible for grant of parole or interim bail but due to his refusal to pay illegal gratification for the same, his name was dropped by taking the excuse that he was also accused of having committed offence punishable under Section 467 of the Indian Penal Code, 1860 with imprisonment for life/ imprisonment upto 10 years.

Learned Counsel for the applicant-petitioner has accordingly prayed that the petitioner may be granted regular bail or in the alternative in view of medical ailments and vulnerability of the petitioner to infection of Covid-19, the applicant-petitioner may be granted interim bail.

The application has been opposed by learned State Counsel and learned Counsel for the complainant who have submitted that the petition filed by the petitioner for grant of regular bail was dismissed by this Court vide order dated 08.05.2019. No new ground for grant of regular bail to the

petitioner is made out. The petitioner is being provided requisite medical treatment in the jail. Requisite precautions of social distancing wearing of mask etc. are being taken to protect the prisoners from the infection of Covid-19. The petitioner does not deserve grant of regular bail and even grant of interim bail on medical grounds. Therefore, the petition for grant of regular bail and application for grant of interim bail may be dismissed.

In the present case, the petitioner absconded and was declared proclaimed offender vide order dated 01.12.2015 and his presence could not be secured till 29.12.2018. The petition filed by the petitioner for grant of regular bail was dismissed by this Court vide order dated 08.05.2019 in view of his conduct and the relevant part of the order is reproduced as under :-

“..... on dismissal of his application for anticipatory bail the petitioner absconded on which he was declared proclaimed offender vide order dated 01.12.2015. The petitioner continued to evade the process of law for a long period of about 3 years till he was arrested on 29.12.2018. During all this period the petitioner cannot be said to be merely pursuing the judicial remedies available to him. On the other hand, he failed to surrender and continued to evade process of law despite specific adjournment taken by learned Counsel appearing for his wife during hearing of her anticipatory bail application on 01.02.2016 to complete instructions with regard to surrender by him. Even after his remand to judicial custody, the petitioner, in collusion with concerned jail authorities and evidently for extraneous consideration, managed to get himself admitted in private hospital-Amar Hospital, Patiala in the name of his medical treatment. From CRM-16229-2019 filed by the complainant and reply to the same filed by Deputy Superintendent, Central Jail, Patiala, it appears that even on his discharge by the above-said hospital, on receipt of communication for his examination by Medical Board regarding his requirement of such medical treatment, the petitioner, instead of reporting to or intimating the jail authorities, went to S.L.G. Ortho and Spine Centre, Patiala. The petitioner claimed himself to be suffering from pain in chest and back bone. However, the petitioner has not produced any medical treatment record to show his medical treatment for any of these ailments prior to his arrest and remand to police/judicial custody in the case.....”

There is no material change in the circumstances. No new ground for grant of regular bail to the petitioner is made out. The petitioner is not entitled to grant of regular bail merely on the ground of his vulnerability to infection of Covid-19 as the nature of accusation, conduct of the accused and relevant attending facts and circumstances of the case have also to be taken into consideration. In view of the facts and circumstances of the case and conduct of the petitioner, we are of the considered view that the petitioner does not deserve grant of regular bail and the petition for grant of regular bail is accordingly dismissed.

So far as the prayer for grant of interim bail on medical grounds is concerned, vide order dated 16.07.2020, the State was directed to file reply with regard to the medical condition of the petitioner. In compliance therewith respondent-State has filed reply by way of short affidavit of Sh.Karanjeet Singh Sandhu, Superintendent Central Jail, Patiala alongwith report of Dr.Sundeep Singh and Dr. Amrinder Singh, Medical Officers, Central Jail, Patiala. In their report, the jail doctors have mentioned that the petitioner is a known case of diabetes Mellitus and hypertension and is on oral medicine for the same. The petitioner had indoor treatment for the above said complaints at Rajindra Hospital, Patiala and also lower back ache. It is evident from the report that the petitioner can be provided requisite medical treatment in the jail for his illness of diabetes mellitus, hypertension and back pain. Requisite precautions of social distancing wearing of mask etc. are being taken to protect the prisoners from the infection of Covid-19. There is no history of any other serious medical ailment, complication or emergent medical treatment of the

petitioner in the recent past entitling him to grant of interim bail on medical grounds. Further, vide order dated 15.07.2020 passed by learned Additional Sessions Judge, Fatehgarh Sahib, the petitioner has been ordered to be released on interim bail on furnishing of bank guarantee as thereby directed in view of the statement of learned Counsel for the petitioner agreeing to condition of furnishing of bank guarantee. Therefore, the application for grant of interim bail is no longer maintainable and is liable to be dismissed.

In view of the above, the petition for grant of regular bail and application for interim bail are accordingly dismissed.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

11.08.2020
kavneet Singh

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