

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

212

CRM-M-16246-2020
Date of decision: 05.08.2020

Ninder Singh @ Baba	Versus	Petitioner
State of Punjab		Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Dr. Rau P.S. Girwar, Advocate
for the petitioner.

Mr. H.S. Multani, AAG Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

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

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of **interim bail** in case FIR No.140 dated 18.10.2018 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Nehianwala, District Bathinda on the grounds of pandemic of Covid-19 and serious illness of his father.

Petitions filed by the petitioner earlier for grant of regular bail were dismissed as withdrawn vide orders dated 06.05.2019 and 09.12.2019 passed by this Court.

Reply by way of affidavit of Sh. Ashok Kumar, PPS, Deputy Superintendent of Police, Sub Division Bhuchio, District Bathinda on behalf of the respondent-State has been filed by learned State Counsel through email print out of which is taken on record.

Copies of discharge summary of the father of the petitioner and joint

statement of Sarpanch, Panch and other persons from the village have been filed along with the reply.

I have heard learned Counsel for the petitioner as well as learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has submitted that father of the petitioner is seriously ill. There is no other male member in the family to arrange for his proper medical treatment and to look after him. In view of serious illness of his father and apprehension of spread of infection of Covid-19 in the jail, the petitioner may be granted interim bail for four weeks.

On the other hand learned State Counsel has argued that the petitioner is accused of having kept commercial quantity of contraband in his possession. The petitioner does not deserve grant of interim bail.

The case of the petitioner did not fall within the ambit of instructions issued by the Punjab State Legal Services Authority as conveyed vide letter dated 27.03.2020 and 02.05.2020 and the petitioner is not entitled to release on interim bail on the ground of apprehension of spread of infection of Covid-19 in the jail.

However, a perusal of medical certificate and joint statement filed with the reply shows that father of the petitioner is suffering from lung disease and other ailments for the last six months. Mother of the petitioner had died about three years ago. There is no one in the house of the petitioner to arrange for medical treatment of his father and to look after him.

It may be observed here that even after conviction and sentence of an accused for conscious possession of commercial quantity of contraband, Section 3(1)(aa) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 permits temporary release of a prisoner on parole on the ground of serious illness of husband or wife or son or daughter or father or mother or brother or sister or grand-father or grand-mother or grandson or grand-daughter or father-in-law or mother-in-law of the prisoner. In *Kulwant Singh VS. State of Punjab (PHHC): 1987(2) CurLJ (CCR) 438* parole was allowed on the ground of serious illness of mother.

In view of the facts and circumstances of the case particularly the fact that father of the petitioner is seriously ill and the petitioner being only son is required to arrange for his medical treatment, I am inclined to extend the concession of interim bail to the petitioner for the said purpose.

In view of the above, the petition is allowed and the petitioner is ordered to be released on interim bail from 07.08.2020 (12 noon) to 18.08.2020 (12 noon) on furnishing of personal and surety bonds by him in heavy amount to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned.

The petitioner shall surrender before Superintendent, Central Jail, Bathinda on 18.08.2020 at or before 12:00 noon.

05.08.2020

Kothiwal

(ARUN KUMAR TYAGI)
JUDGE

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