

205

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.20965 of 2020
Date of Decision: 14.09.2020

TEJPAL SINGH @ CHANDPetitioner
Vs
STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Arti Kaur, Advocate
for the petitioner.

Mr. H.S. Sullar, D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

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

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.80 dated 19.10.2019, registered under Section 22 of the NDPS Act at P.S. Balachaur, District SBS Nagar.

Petitioner is a patient of HIV positive. Vide order dated 11.08.2020, learned State counsel sought time for filing status report. The time was further extended on 02.09.2020 for filing status regarding medical condition of the petitioner.

In compliance of the aforesaid, short reply by way of affidavit of Rajiv Kumar Arora, PPS, Superintendent, Central

Jail, Ludhiana on behalf of respondent/State has been filed. The same is taken on record.

In the aforesaid reply, medical status report of the petitioner issued by the Medical Officer, Central Jail, Ludhiana has been relied. According to the aforesaid report, petitioner is known case of HIV Infection for which he is on ART treatment since 18.06.2020 vide IF No.10789 and patient is on high protein diet. Patient is HCV card test reactive and is advised HCV Viral Load test as on 03.09.2020. Presently, general condition of the patient is stated to be stable.

In addition to the above medical condition of the petitioner, learned counsel for the petitioner submitted that the recovery of contraband from the petitioner is marginally in excess of commercial quantity. 11 injections of Buprenorphine each containing 2 ml. were allegedly recovered from the petitioner. Injections of Avil do not fall under the NDPS category. Total 22 ml of the contraband has been recovered. Upto 20 grams of Buprenorphine falls under the non-commercial quantity.

By relying upon **Shinda vs. State of Punjab, 2013(3) RCR (Criminal) 557** and **Lakhwinder Singh @ Bittu vs. State of Punjab, 2012(22) RCR (Criminal) 301** learned counsel

submitted that the quantity recovered from the petitioner is marginally in excess of commercial quantity. Petitioner is in custody since 19.10.2019. Due to the situation arising out of COVID-19 pandemic, trial of the case may take some time in its culmination.

Learned State counsel on instructions from SI Iqbal Singh however opposed the prayer on the basis of quantity being commercial in nature.

At this stage, without adverting to the merits of the case, looking to the aforesaid medical status of the petitioner and quantity of contraband recovered from the petitioner, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

September 14, 2020

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No