

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

CRM-M-20877-2020 (O&M)

Date of decision: 30.07.2020

Krishan Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. H.S. Dandiwal, Advocate for the petitioner.

Mr. Karan Sharma, AAG, Haryana.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for interim bail has been filed by petitioner Krishan Kumar, aged about 40 years, an accused in FIR No.92 dated 09.03.2020, for an offence under Section 15 (for short 'the Act'), registered with Police Station Sadar Fatehabad, District Fatehabad.

Briefly stated the facts of the case as per prosecution story are that, on 09.03.2020, a police party from Police Station Sadar Fatehabad led by ASI Harpal while being present at Bus Stand Chowk, Village Mallar situated on Fatehabad to Nagrupur road in connection with official duty had intercepted a car being driven by Krishan Kumar son of Harpal Singh (present petitioner) with Devilal son of Raghuvir, resident of Tamaspura, sitting with him on the front

seat. The search of the said car bearing registration No.HR-29-P-7934 make Swift revealed that 05 bags containing poppy husk were being carried; both the occupants of the car were apprehended; the recovered contraband was seized; formal FIR was registered and the matter was investigated.

Petitioner/accused had moved an application for interim bail before Special Judge, Fatehabad, however, his such application was dismissed, vide order dated 06.07.2020. As such, he has approached this Court, craving for grant of similar relief, which request is being opposed by learned State counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has contended that the petitioner is an acute patient of diabetes and has been taking insulin injections to survive. On account of non-availability of proper medication that could result in death of the petitioner, therefore, he be granted interim bail to get proper medical treatment.

This request is being strongly opposed by the State counsel, stating that the proper medical facilities are being provided to all the jail inmates who suffer from any ailments and the disease from which the petitioner is allegedly suffering is one which does not require outdoor treatment.

After considering the rival contentions, I find that there is absolutely no ground to grant interim bail to the petitioner. Section 37

of the Act is very relevant in the present scenario, which is being reproduced as under:-

Offences to be cognizable and non-bailable- (1)

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),-

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 2[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless-

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.”

It clearly provides that a person accused of an offence involving commercial quantity can be released on bail only when the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and is not likely to commit any offence while on bail. I do not find any reason or justification for recording such satisfaction. Thus, no ground is there to direct release of the petitioner on interim bail even. Diabetes is a common disease now a days, which can be easily controlled by proper medication and treatment. As is clear from the personal profile of the petitioner prepared by Superintendent, Central Jail-2, Hisar, available on file the

petitioner has been prescribed medicine available in the jail pharmacy itself and he has been referred to Govt., Hospital, Hisar even once. There is nothing on record to show that proper treatment is not available in the jail or is not being given to him. It seems that the petitioner has invented an excuse to make out a case for grant of interim bail. He is accused of a serious offence of having been found in conscious possession of 100 kgs of poppy husk while he was traveling in car along with his co-accused. The contraband recovered amounts to commercial quantity, pointing out that the petitioner has been indulging in drug peddling. The drug trafficking is rising at an alarming rate in this region which has ruined the lives of young men and women. Drug peddlers for a small monetary consideration make the youth to use drugs for a small time excitement/kick. The drug peddlers have successfully destroyed the social fabric of our society and led youth to the wrongful path. Such type of persons need to be dealt with firmly and sternly and no sympathy can be shown to them lest that should prove to be counter productive and result in increase drug trafficking.

There is apprehension of his indulging in drug peddling again putting lives of innocent person in danger if ordered to be released on interim bail. There is absolutely no merit in the instant petition. The same stands dismissed.

30.07.2020

*sumit.k***(H.S. MADAAN)
JUDGE**

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No