

Sr.No.207

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22203-2020

Date of decision:28.09.2020

Swaran Singh

... Petitioner(s)

versus

State of Punjab

... Respondent (s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. Divjot S.Sandhu, Advocate
for the petitioner.

Shri P.S.Walia, AAG, Punjab

Jasgurpreet Singh Puri, J.(Oral)

Present petition has been filed for grant of regular bail to the petitioner in FIR No.80 dated 17.06.2016 registered under Section 22 of NDPS Act 1985, at Police Station Sadar Kapurthala, District Kapurthala.

Learned counsel for the petitioner has submitted that the petitioner was wrongly roped in the present FIR and there had been violations of mandatory provisions of Section 50 of the NDPS Act.

On 24.08.2020 when the matter came up for hearing, learned counsel for the petitioner has submitted that at the moment he is only pressing for granting of interim bail to the petitioner on the ground that wife of the petitioner has to undergo major surgery of her forearm and therefore, his prayer may be considered in this regard.

State was directed to file report with regard to the authenticity of the aforesaid averment made by learned counsel for the petitioner by the

next date of hearing.

Pursuant to the aforesaid direction an affidavit has been filed by Surinder Singh P.P.S Deputy Superintendent of Police, Sub Division Kapurthala, in which it has been stated that the plea taken by the petitioner with regard to the surgery of wife of the petitioner is false because the wife of the petitioner namely, Balwinder Kaur has already been operated on 31.07.2020 at S.G.L., Charitable Hospital, Village Mustafabad, District Kapurthala and the medical certificate with regard to the same has also been annexed as Annexure R-1. Para 10 of the affidavit is reproduced as under:-

“That the petitioner has filed the present petition for grant of regular bail on the ground of surgery of his wife namely Balwinder Kaur and other false grounds. However, it is submitted that the wife of the petitioner namely, Balwinder Kaur @ Bindro was operated on 31.07.2020 at S.G.L., Charitable Hospital, Village Mustafabad, District Kapurthala. In this respect, the concerned has issued a medical certificate vide Ref., No.1216/SGL/A/2580 dated 10.09.2020, which is attached herewith as Annexure R-1.”

Further, it has been stated in the affidavit that the accused petitioner was earlier allowed an interim bail vide order dated 30.07.2016 by the Court of Special Judge, Kapurthala. However, from report of chemical

examiner the contraband came to be commercial one and after completion of investigation, challan was presented in the Court of Special Judge on 15.12.2016 and then the interim bail of the petitioner was cancelled vide order dated 15.12.2016. Thereafter, the petitioner had absented from the learned Trial Court and ultimately, he was declared a proclaimed offender by the court of Sh. Muneesh Arora, Judge Special Court, Kapurthala vide order dated 02.07.2018 and he was arrested on 15.03.2019. It is further stated that in the affidavit that there are seven witnesses listed in the prosecution witnesses and out of which two prosecution witnesses have been examined and that the petitioner is also involved in two more cases of NDPS Act i.e. **FIR No.242** dated 18.10.2018 registered under Sections 22/61/85 NDPS Act at Police Station Kotwali, Kapurthala and **FIR No.111** dated 25.06.2018 registered under Sections 21/61/85 NDPS Act at Police Station Kartarpur, District Jalandhar. There is every likelihood of the petitioner to misuse the concession of bail, if granted.

I have heard the learned counsel for the parties and perused the affidavit which has been filed by the State.

Since it has been stated in the affidavit that wife of the petitioner had already undergone surgery of Forearm on 31.07.2020 and the certificate of the concerned hospital has also been annexed as Annexure R-1, therefore, petitioner would not be entitled for grant of interim regular bail on this ground. Furthermore, it has also been stated in the affidavit that earlier when the petitioner was granted interim bail, he absented himself and was declared as proclaimed offender and thereafter, he was arrested by the police. Furthermore, the petitioner is also under trial in two other FIRs under the NDPS Act and therefore, all these factors would be important for

consideration of grant of bail/interim bail to the petitioner.

After considering the totality of the circumstances of the present case and hearing the learned counsel for the parties, this Court is of the considered opinion that this is not a fit case for grant of bail to the petitioner at this stage. Therefore, the present petition is dismissed. However, nothing stated hereinabove, shall be construed to be an expression on the merits of the case.

28th September, 2020
Shivani Kaushik

[JASGURPREET SINGH PURI]
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>