

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

105

**CRM-M-26015-2020
Date of decision: 09.09.2020**

Akash Mishra	Versus	Petitioner
State of Punjab		Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ish Puneet Singh, Advocate
for the petitioner.

Mr. Sukhbeer Singh, Asstt. A.G. 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 (second) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of **interim bail** in case FIR No.31 dated 28.05.2019 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Aur, District S.B.S. Nagar.

The petitioner along with his co-accused Rohit Kumar was apprehended by the police party headed by ASI Baldev Singh on 28.05.2019 when they were going on a motorcycle bearing registration No.PB-32X-0516 and on search of the bag carried by them 40 injections of Buprenorphine containing 2ml each and 40 injections of Avil containing 10 ml each were allegedly recovered. Pursuant to registration of the above-said FIR on these allegations, the police investigated the case and filed challan against them.

The petitioner had filed petition for grant of regular bail earlier which was dismissed as withdrawn vide orders dated 06.08.2020 passed by this Court.

The petition for grant of interim bail has been opposed by the State in terms of reply filed by way of affidavit of Sh. Harneel Singh, PPS, Deputy Superintendent of Police, Nawanshahr, Sub Division, District S.B.S. Nagar on behalf of the respondent-State through e-mail print out of which is taken on record.

Custody certificate has also been filed by learned State Counsel through email print out of which is also taken on record.

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 the petitioner was found to be HIV positive and is undergoing treatment for the same. The petitioner has now been diagnosed with Hepatitis C. Due to his ailments, the petitioner is vulnerable to the infection of Covid-19 and requires specialised medical treatment for his ailments. The petitioner is not involved in any other case. Therefore, the petitioner may be granted interim bail for his treatment.

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 is being provided requisite medical treatment. The petitioner does not deserve grant of interim bail. Therefore, the petition may be dismissed.

A perusal of medical report filed with the reply of the respondent-State shows that the petitioner is a known case of HIV

infection for which he is on ART treatment and has been declared to be HCV reactive with Viral Load positive. Even though as mentioned in the reply the petitioner is being provided requisite treatment during his detention in custody but due to his ailments the petitioner is vulnerable to infection of Covid-19 and requires specialised medical treatment, special diet and care for recovery from Hepatitis C. It may be observed here that even on conviction and sentence for conscious possession of commercial quantity of contraband, Section 3(1)(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 permits temporary release of a prisoner on parole for any sufficient cause. In view of the facts and circumstances of the case, I am inclined to extend the concession of interim bail to the petitioner for the purpose of his treatment.

In view of the above, the petition is allowed and the petitioner is ordered to be released on interim bail from 11.09.2020 (12 noon) to 26.10.2020 (12 noon) on furnishing of personal and surety bonds by him to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

Interim bail is granted to the petitioner subject to the condition that he shall not commit any offence under the NDPS Act after his release on interim bail.

The petitioner shall surrender before Superintendent, Central Jail, concerned on 26.10.2020 at or before 12:00 noon.

09.09.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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