

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM No.M-31421 of 2020

DATE OF DECISION:28.10.2020

Kamalpreet Singh @ Kamal

... Petitioner

Versus

State of Punjab

... Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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

Mr. Sandeep Singh Deol, Deputy Advocate General,
Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for the grant of Interim bail in case of FIR No.72 dated 03.11.2019 (Annexure P-1) registered at Police City Balachaur, District SBS Nagar under Sections 22 of the Narcotic Drugs and Psychotropic Substances Act 1985 .

Learned counsel for the petitioner argues that the health of the petitioner is such that he is suffering from Hepatitis C and is also HIV positive. She further submits that keeping in view the pandemic of Covid 19, the petitioner is at risk qua his health while in jail.

Learned counsel for the petitioner further submits that keeping in view the guidelines, which have been issued by the High Powered Committee dated 25.03.2020 for the release of the prisoners due to the pandemic of Covid 19, the case of the petitioner is covered

under para 12 (iii) (c).

Before the prayer of the petitioner could be considered, the respondents were directed to verify the said statement of the counsel for petitioner. The respondents have filed a short reply, which is as under:

“1. That the present short affidavit is being filed regarding the health condition of the petitioner in compliance of order dated 12.10.2020 passed by this Hon'ble Court.

2. That it is respectfully submitted that the petitioner namely Kamalpreet Singh @ Kamal s/o Ravinderpal Singh, resident of Garhi Kanungoa, Police Station Balachaur, District Shaheed Bhagat Singh Nagar was admitted in Central Jail, Ludhiana on 05.11.2019 as an undertrial in case FIR No.72 dated 03.11.2019 u/s 22/61/85 NDPS Act, Police Station City Balachaur, District Shaheed Bhagat Singh Nagar and no any other case is pending against the petitioner.

3. That in compliance of orders passed by this Hon'ble Court, the Jail authorities obtained the medical report of the petitioner from the Medical Officer, Jail Hospital of Central Jail, Ludhiana. It is submitted that as per medical report the petitioner is a known case of HIV Infection for which he put on ART treatment on 27.10.2020 vide IF No.11147 and put on high protein diet. He is prescribed medication during his routine visit in Jail Hospital. Presently, he is in satisfactory condition. The petitioner falls into the Para No.12(iii)(c) of the guidelines dated 25.03.2020 of High Powered Committee. Copy of the same is annexed herewith as Annexure R-1.

4. That the jail authorities are taking good care of him and are providing him the best possible medical treatment under the supervision and advice of Medical

Officer, Jail Hospital of Central Jail, Ludhiana.

5. That the deponent has complied with the directions passed by this Hon'ble Court and is ready and willing and is duty bound to obey any further directions passed by this Hon'ble Court.”

I have heard the learned counsel for the parties and have gone through the record of the case with their able assistance.

From the above facts, it transpires that the petitioner is HIV positive and is also suffering from Hepatitis C and his condition has been stated to be satisfactory only. As per the affidavit, the respondent-State has conceded that the case of the petitioner is covered under para 12 (iii)(c) of the guidelines dated 25.03.2020 of the High Powered Committee, which were issued for the release of the prisoners due to the pandemic of Covid 19. Clause 12 (c) is as under:

“CRITERIA FOR RELEASE OF UNDER TRIAL PRISONERS”

12. The criteria to be followed for granting interim bail to under-trial prisoners shall be as described below:-

XXX

XXX

XXX

- (c) For undertrial prisoners in custody suffering from chronic diseases and pre-existing conditions the Committee recommends that under trial prisoners suffering from the following diseases and where maximum prescribed sentence is upto 10 years may be released on interim bail:

Chronic Diabetes

HIV

Serious neurological issues (not simple depression)

Chronic lung disease

Severe Asthma

Serious Heart condition

Pregnant women may also be considered

Whether the under-trial prisoner falls under the above said category or not, shall be as per the report of the Jail Medical Officer and further certified by an SMO or the CMO. (Action: Medical Officer of concerned Jail and SMO/CMO concerned).

Keeping in view the above, especially when the petitioner is an HIV positive and his health is at risk in jail keeping in view the pandemic of Covid 19 and his case is also covered under the guidelines issued by the High Powered Committee, the prayer of the petitioner for the grant of interim bail is accepted. The petitioner is directed to be released on interim bail till 28.02.2021 as the learned counsel for the petitioner has assured this Court that the petitioner will maintain good conduct during the period he is out of the jail on interim bail. In case of default, this order is liable to be reviewed. The petitioner is directed to surrender on the expiry of the said period. However, the above direction will be subject to the satisfaction of the Duty Magistrate/trial Court, SBS Nagar.

Petition stands disposed of.

October 28, 2020
jt/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No