

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

211

CRM-M-35653-2020

Date of Decision:16.11.2020

DALJIT SINGH @ BILLA

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Subhash Kumar, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

SUVIR SEHGAL, J.(ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.25, dated 06.03.2020 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short "NDPS Act") at Police Station Cantt., Jalandhar, District Jalandhar.

Counsel for the petitioner has urged that no recovery has been effected from the person of the accused-petitioner and he has been falsely framed. Counsel has referred to the FIR, Annexure P-1, and argued that the story in the FIR is that the petitioner was travelling on an Activa scooter and he got scared when he saw a police party on patrol, and threw out a polythene bag which he was carrying. Recovery of 25 intoxicating injections

of Avil 10 ml. each and 25 injections of Rexogesic 2 ml each containing salt of Buprenorphin Hydrochloride was made and the petitioner was apprehended at the spot on 06.03.2020. Counsel submits that the petitioner has been framed in 8 other FIRs under the NDPS Act, all of which have been registered at the same police station i.e. P.S. Sadar, District Jalandhar. He has taken the Court through paragraph 5 of the petition, wherein it has been submitted that out of the said FIRs, the petitioner has been acquitted in six cases, he has been discharged in the 7th case and is being tried in the 8th case which is pending, wherein he is on bail. Counsel has asserted that the petitioner is a soft target and is being roped in every case of recovery by the officials of the said police station. He further submits that the petitioner is HIV positive and is at the last stage of his life.

Per contra, State counsel upon instructions from ASI Harbhajan Singh, has opposed the petition. He has filed custody certificate dated 15.11.2020, and submitted that as the recovery effected falls within the ambit of commercial quantity and the petitioner has been in custody for a mere 7 months and 8 days, he is not entitled to the concession of bail.

I have considered the rival submissions of the counsel for the parties.

By order dated 10.11.2020, this Court had directed the authorities to file an affidavit with regard to the medical condition of the petitioner and the treatment being accorded to him. In compliance, a short affidavit dated 14.11.2020 has been filed by the Superintendent Central Jail, Kapurthala appending therewith a report dated 13.11.2020, Annexure R-1, regarding the medical condition of the petitioner. The report is reproduced as under:-

“Patient Daljit Singh @ Billa S/o Jarnail Singh was known case of HIV+Infection and taken treatment from ART Centre, Civil Hospital Jalandhar. He was diagnosed of cervical spine injury with quadriplegia with history of fall from height. He was referred to Guru Nanak Dev Medical College Amritsar on 12.10.2020 and was admitted in GMC Amritsar.

At present he is under treatment on conservative basis in orthopedics unit-1, at Guru Nanak Dev Medical College, Amritsar as report received from professor & Head Department of orthopedics, Nanak Dev Medical College, Amritsar.”

An examination of the report shows that the petitioner has been diagnosed with Quadriplegic, which as per merriem-webster dictionary means partial or complete paralysis of both the arms and legs especially as a result of spinal cord injury or disease in the region of the neck. The medical report further shows that the petitioner is being given treatment on “conservative basis” in the orthopedic unit of a hospital.

Besides, being a known case of HIV positive, the petitioner is also suffering from paralysis of his limbs. This Court is of the opinion that his medical condition is such that he may need specialized treatment. The petitioner is not likely to get proper specialized medical treatment as long as he remains in incarceration.

Keeping in view the aforesaid exceptional circumstances relating to health of the petitioner and without considering the other submissions, this Court is of the view that detaining the petitioner in custody any further may result in further deterioration of his medical condition. Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on regular bail on his

furnishing bail/surety bonds to the satisfaction of concerned trial Court/Illaqa Magistrate.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

16.11.2020

Sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No