

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-42075-2020**

Date of decision: December 22, 2020

Nirmaljit Singh @ Nimma

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWANPresent: Mr. Abhimanyu Singh, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Charanjit Singh Bakshi, Advocate
for the complainant.
(through video conferencing).**ARVIND SINGH SANGWAN, J.** (Oral)

This is the third petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.77 dated 7.9.2017 under Sections 302, 148, 149, 473, 201, 120-B IPC and under Section 25 of the Arms Act, registered at Police Station Banur, Patiala, District Patiala (now SAS Nagar Mohali).

Facts of the case are noticed in order dated 15.11.2017 passed in CRM-M-42329-2017, while dismissing the first anticipatory bail.

Thereafter, the second petition was disposed of by passing the following order dated 9.11.2020 in CRM-M-20524-2020:-

“This is the second petition that has been filed for grant of regular bail to petitioner in case FIR No. 77 dated 07.09.2017, registered under Sections 302, 148, 149, 473, 201, 120-B of the IPC and Section 25 of the Arms Act, 1959 at Police Station Banur, District Patiala.

The first petition, bearing CRM-M-42329-2017, was dismissed on merits on 15.11.2017.

Learned counsel for the petitioner submits that petitioner is a patient of Carcinoma (Cancer) at right axilla, which has metastatised from an unknown source inside the body.

Learned counsel further submits that petitioner has applied for bail for his treatment as due to COVID-19 situation, the PGIMER, Chandigarh is not operating OPDs and treating only COVID-19 patients.

Vide order dated 08.10.2020, the State was directed to apprise the Court after seeking opinion from PGIMER, Chandigarh and by filing a specific affidavit whether the case of the petitioner would fall under the guidelines of the State High Power Committee.

Today, an affidavit of Superintendent, District Jail, Rupnagar has been filed in Court along with medical report submitted by the Medical Officer, District Jail, Rupnagar suggesting that the medical condition of the petitioner makes him eligible for relief under medical criterion of State High Power Committee.

Learned counsel for the petitioner further submits that he would feel satisfied if a direction is issued to State High Power Committee to consider the case of the petitioner and decide whether he is entitled to any relief, in accordance with law and criterion.

Learned State counsel, assisted by learned counsel for the complainant, has no serious objection to the limited prayer made by learned counsel for the petitioner.

Accordingly, the present petition is disposed of.

The State High Power Committee is directed to consider the case of the petitioner as per law/existing guidelines and decide the same within a period of ten days from the date of receiving a certified copy of this order.”

Counsel for the petitioner has now again filed this 3rd petition, and submits that as per the decision of the High Powered Committee dated 20.11.2020, the matter has again been left open to be revised before this Court for appropriate orders.

A perusal of the proceedings of the High Powered Committee is reproduced as below :-

“11. Case for grant of regular bail to under trial Nirmal Singh s/o Sh. Beant Singh :- The matter concerning Hon’ble Punjab and Haryana High Court directing the High Powered Committee to consider the case of UT prisoner Nirmaljit Singh @ Nimma for regular bail on medical grounds vide orders dated 9.11.2020 in CRM-M-20534-2020 was taken up by the HPC.

11.1 It was informed that UT Nirmaljit Singh is lodged at District Jail Ropar in cae FIR No.77 dated 7.9.2017, and is suffering from Carcinoma (Cancer). Operative part of the directions of High Court as follows :-

“The State High Powered Committee is directed to consider the case of the petitioner as per law/existing guidelines and decide the same within a period of ten days from the date of receiving a certified copy of this order.”

11.2. The background of the case is that as per recommendations of HPC dated 2.5.2020, Superintendent, District Jail, Ropar forwarded the case of UT Nirmaljit Singh @ Nimma to District Courts, Mohali for consideration vide letter dated 7.5.2020. His case was rejected on the following grounds by the Additional District and Sessions Judge, SAS Nagar (Mohali).

“As per the guidelines dated 2.5.2020 issued by the High Powered Committee of the Hon’ble Punjab and Haryana High Court disease Cancer is not mentioned in para 8.2 of the guidelines.”

11.3 The case was examined by the Committee and it was decided to add the following conditions to the list of chronic diseases mentioned at paras 8.2 and 9.3 of the recommendations of HPC dated 2.5.2020;

- * Cancer of any kind for which the patient is under treatment.

- * Any other disease which is life threatening and requires immediate medical attention.

11.4 The process to be followed while considering the case for release of such convicts shall be as mentioned in the recommendations of HPC dated 2.5.2020.

(All Superintendents of Jails; all CMOs)

11.5. Thus, the Committee requests the matter be revived before Hon'ble High Court of Punjab for appropriate orders."

Counsel for the petitioner submits that as per the decision of the High Powered Committee, though as per the earlier guidelines dated 2.5.2020, the cancer was not mentioned in Para 8.2 of the guidelines, however, now the Committee has decided to add cancer of any kind for which the patient is under treatment or any other disease, which is life threatening and required medical attention, will be included in the list of chronic diseases.

Counsel for the petitioner has further submitted that in view of the recommendation of the Superintendent, District Jail, Ropar, as the petitioner is suffering from Carcinoma (cancer) and requires immediate medical attention, this petition is partly allowed and the petitioner is granted bail upto 31.3.2021 for his medical treatment, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illauqa Magistrate/Duty Magistrate, concerned.

However, it is made clear that at any stage, if the petitioner is found misusing the concession of bail; extending any threat to the prosecution witnesses; or in any manner found trying to contact or influence the complainant or any of the family member(s) of the complainant, it will be open for the complainant to apply for cancellation of bail of the petitioner by reviving this petition.

December 22, 2020
satish

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No