

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

**CRM-M-38782-2019**

**Date of decision:11.11.2020**

Ajay

...Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present:- Ms. Aarti Kaur, Advocate for  
Mr. Pradeep Panwar, Advocate for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

**HARNARESH SINGH GILL, J. (ORAL)**

Case is taken up for hearing through video conferencing.

A Short reply by way of an affidavit of Deputy Superintendent, Central Jail, Ludhiana, filed on behalf of the respondent/State is taken on record.

The custody certificate filed by way of an affidavit of Deputy Superintendent, Central Jail, Ludhiana is also taken on record.

Through this petition, the petitioner seeks regular bail in case bearing FIR No.13 dated 04.03.2019 registered under Section 22 the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Balachaur, District SBS Nagar.

Learned counsel for the petitioner states that the alleged recovery of 65 injections of Buprenorphine, each measuring 2 ml Batch No.IL19002 and 65 injections of Avil, each measuring 10 ml Batch No.2118250, is not covered under the NDPS Act, but the learned Special Court, SBS Nagar, has rejected the bail application of the petitioner on

the ground that as the recovery effected from the petitioner falls within commercial quantity, the rigors of Section 37 of the NDPS Act, are attracted. It is further submitted that the petitioner is a known case of HIV Infection for which he has been under treatment since 20.02.2020 and that there are chances of further deterioration of his health, particularly in the wake of Covid-19 Pandemic. Thus, even on the medical ground, a prayer for grant of bail is made. It is further submitted that the trial is moving at snail's pace and out of 10 witnesses, only one witness has been examined so far.

Learned State counsel while opposing the prayer for bail states that in view of the bar contained in Section 37 of the NDPS Act, the petitioner is not entitled to be enlarged on bail. However, he does not dispute the custody period and the medical condition of the petitioner. Even as per the custody certificate, there is no other case pending or registered against the petitioner.

I have heard the learned counsel for the parties.

The petitioner, who is stated to be a known case of HIV Infection, has been in custody since 04.03.2019. Trial of the case would take time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the submissions made by the learned counsel for the petitioner coupled with the medical condition of the petitioner, which may likely deteriorate due to widespread transmission of Covid-19, and the fact that he has been in custody since 04.03.2019, without commenting anything on the merits, lest it should prejudice the case of either side, the

present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

11.11.2020  
ishwar

(HARNARESH SINGH GILL)  
JUDGE

|                            |        |
|----------------------------|--------|
| Whether reasoned/speaking? | Yes/No |
| Whether reportable?        | Yes/No |