

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-54914-2019

Date of decision: 01.09.2020

Shiv Kanwar Singh @ Shiv

.....Petitioner

versus

State of Punjab

....Respondent

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Ms Arti Kaur, Advocate for
Mr. J.S. Pannu, Advocate,
for the petitioner.
Mr. P.S. Walia, Asstt. A.G., Punjab.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of restrictions due to outbreak of pandemic COVID-19.

Petitioner-Shiv Kanwar Singh @ Shiv, stated to be aged 25 years, has filed the present petition *inter alia* praying for grant of regular bail in case FIR No.96 dated 20.06.2019 under Section 22 of NDPS Act, 1985, registered at Police Station City Nawanshahar, District SBS Nagar.

Learned counsel for the petitioner makes many fold submissions.

Firstly by making reference to the orders dated 29.05.2020 and 08.06.2020, passed by this Court, it is submitted that contention on behalf of petitioner was that the petitioner is HIV positive and is also a patient of Hepatitis 'C' and is virtually on the death bed. It is then contended that this Court on 08.06.2020, had referred to the minutes of meeting dated

25.5.2020 of the Executive Chairperson, Punjab State Legal Services Authority, to submit that petitioner be released on interim bail. Accordingly, the petitioner was released on interim bail in pursuance to order dated 08.06.2020. It is then submitted by the learned counsel that although in pursuance to the subsequent orders of this Court, an affidavit of Sh. Rajiv Kumar Arora, PPS, Superintendent, Central Jail, Ludhiana, was filed along with Medical Report dated 04.06.2020. In the said affidavit, it was mentioned that the patient is being referred to higher centers for his better health and specialist consultation as and when needed.

Learned counsel for the petitioner, on merits, by making reference to FIR, submits that as per the allegations in the FIR, an information from special informer was received that Harvinder @ Sammi and Shiv Kanwar Singh @ Shiv (present petitioner) are involved in selling the intoxicant injections and accordingly, on this information, the present FIR was registered. Learned counsel then submits that co-accused, namely, Harvinder @ Shammi, has been granted regular bail vide order dated 25.11.2019 passed in CRM-M-34433-2019. It is noticed in the said order that after apprehension of petitioner therein, recovery was effected and *ruqa* was sent to the Police Station for registration of FIR and thereafter, FIR No.96 dated 20.06.2019 was registered. But, in the disclosure statement of petitioner therein, and recovery memo, FIR No.96 (duly typed) already find mentioned without there being any explanation as to how FIR number has come on the disclosure statement and recovery memo.

Learned State counsel, on instructions from ASI Som Lal, submits

that the challan was presented on 22.10.2019. There are total of 12 witnesses but none has been examined till date. He further submits that the recovery from the petitioner is very heavy and much above the commercial quantity.

On the asking of Court, learned counsel for the petitioner submits that the petitioner is not involved in any other case.

Faced with the situation, learned counsel for the petitioner submits that the petitioner is already a patient of HIV positive and Hepatitis 'C'. Learned counsel also submits that the petitioner is not earlier involved in any other case and prays for parity on account of co-accused having been granted bail. He then submits that due to the present COVID-19 situation and also the fact that trial is likely to take some time, detention of the petitioner in jail would be dangerous to his life.

In view of the peculiar facts as noticed above, considering the existing situation due to COVID and the fact that trial is likely to take time, this Court deems it appropriate to release the petitioner on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to his furnishing bail bonds/surety bonds. However, it is made clear that anything observed herein shall not be construed as an expression on merits of the case.

In addition to the bail/surety bonds, the petitioner shall deposit the FDR of Rs. 4 lakhs (in his own name) within *one month* from the date of his release with the trial Court. He is also directed to give an undertaking that he will not encash the said FDR, till further orders of the Court. This

undertaking be also sent to the concerned Bank. It is also made clear that in case, the petitioner is subsequently found involved and guilty in any other subsequent case, the said amount mentioned in the FDR, shall stand forfeited and deposited in the Government Treasury. The above said amount shall be without prejudice to defence of the petitioner before the trial Court.

The petition stands disposed of accordingly.

(GIRISH AGNIHOTRI)
JUDGE

01.09.2020

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Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No