

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

219

CRM-M-3223 of 2021
Date of decision: 29.10.2021

Pardeep Singh @ Baba

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Arti Kaur, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

This is the second petition filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the petitioner in case FIR No.41 dated 12.06.2019 registered under Sections 22, 29 of [Narcotic Drugs and Psychotropic Substances Act, 1985](#) (for short “the Act”) at Police Station Balachaur, District SBS Nagar (Annexure P-1).

As per the case of the prosecution, FIR (Annexure P-1) has been registered when a motorcycle being driven by Pardeep Singh @ Baba (present petitioner) with Amritpal @ Shinda on the pillion was intercepted and contraband of 80 injections of Buprenorphine and 80 injections of Avil were recovered from them. The petitioner was arrested on the spot.

Counsel for the petitioner submits that the first petition (CRM-M-55405 of 2019) seeking grant of regular bail was withdrawn after

arguments on 08.01.2020 as the trial was at its initial stage. She submits that the petitioner has been found to be HIV positive. She has placed reliance upon the report dated 01.0.2021 (Annexure R-1) submitted by the Medical Officer, Central Jail, Ludhiana, in compliance of the order passed by this Court, which is reproduced as under:-

“It is submitted that UT Pardeep Singh S/o Lachhman Singh is a known case HIV Infection for which he is on ART treatment since 25.06.2019 vide ART Registration No.PB/LD/00/7462 and IF No.9488 from ART Center, Civil Hospital, Ludhiana. Patient is being provided healthy and special High Protein i.e. egg and milk diet. Presently, the general condition of the patient is stable.”

Counsel submits that though as per the custody certificate, the petitioner has been stated to be facing trial in two other FIRs, both of which have been registered for offences under IPC, but the petitioner has been acquitted in both. She submits that though the challan has been presented and the charge has been framed almost two years earlier, but there is no progress in the trial and the petitioner, who has been suffering incarceration deserves to be released on bail.

Per contra, State counsel upon instructions from ASI Surinder Pal, has opposed the petition and submitted that as the contraband recovered from the petitioner has been found to be 160 ml of Buprenorphine, which falls within the commercial quantity as per the notification issued under the provisions of the Act and the bar under Section 37, *ibid* is attracted.

Upon further instructions, he submits that the challan has been presented on 22.11.2019 and the charge has been framed on 13.12.2019. However, none of 16 prosecution witnesses could be examined.

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

Hon'ble Supreme Court in **Union of India Vs. K.A.Najeeb 2021(2) RCR (Criminal) 145** has held that long incarceration of the accused with no progress in the trial is a sufficient ground to grant bail to an accused.

Keeping in view the health condition of the petitioner, his clean antecedents as he has earned acquittal in both IPC cases and the fact that he has remained in custody for the last more than 02 years, 04 months and the trial is at its initial stage, this Court *prima facie* is of the view that he deserves to be enlarged on bail during pendency of the trial.

Without examining the merits or demerits of the arguments addressed by the counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

While being released on bail, the petitioner shall furnish an undertaking to the effect that henceforth, he will not get involved in sale, purchase or trade etc. of any prohibited substance and in case, he violates the undertaking, liberty is granted to the State to seek cancellation of the bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

October 29, 2021
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>