

BALWAN SINGH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

*(The case has been taken up through video conferencing on
account of Covid-19 Pandemic)*

VIVEK PURI, J. (ORAL)

Balwan Singh-petitioner is seeking regular bail in the case bearing FIR No. 28 dated 02.02.2019 under Sections 22 (c) NDPS Act, 1985 and 18A/18(c) of Drugs and Cosmetics Act, 1940, registered at Police Station Bhuna, District Fatehabad.

Briefly, the case has been registered in pursuance of recovery of 1800 tablets of Carisoprodol and 150 bottles of Onerex Cough Syrup. The contraband was being carried on a motorcycle by the petitioner along with the co-accused, namely, Monu @ Satbir who slipped away from the spot.

It has been contended by the learned counsel for the petitioner that the petitioner is suffering from serious ailments for which surgical intervention is required, he is in custody for a period of 03 years and 04 months, the co-accused, namely, Monu @ Satbir has been granted pre-arrest bail, the tablets do not fall within the ambit of NDPS Act, 9 out of 16 witnesses have been examined so far and the case is now fixed in the trial Court for 21.01.2022 for prosecution evidence. Learned counsel for the petitioner has also placed reliance upon a

decision of Hon'ble Supreme Court rendered in **Criminal Appeal No. 668 of 2020** tilted as **Amit Singh Moni Versus State of Himachal Pradesh** to argue that even in a case pertaining to the recovery of commercial quantity, the bail can be granted to an under trial on the ground of long incarceration.

Learned State counsel has not assailed the factual aspects and mainly resisted the application on the score that the quantity of Onerex Cough Syrup recovered from the possession of the petitioner falls in the category of commercial quantity.

It is significant to note that the medical report of the petitioner annexed with the replies indicates that the petitioner is suffering from "Varicose Vein of left lower limb with lower limb swelling". In the medical report, it has been reported as follows:-

"Recently, the patient condition remain same and pain is persistent with severe swelling, hence the patient was again refer to PGIMS Rohtak on date 14.09.2021 for further treatment in Vascular Surgeon/CTVs surgeon department. He underwent Carotid Doppler which show left SFJ and L SPJ perforator with DVT. He advised limb elevation, elastic shockinete and treatment was optimized accordingly, but condition of said patient remain same. At present the condition of said patient is stable alongwith severe pain with severe swelling of left limb and Color of left leg is also change."

The aforesaid report is indicative of the fact that the petitioner is suffering from certain serious health issues, which require appropriate medical treatment. In such circumstances, it shall be appropriate and for the benefit of the petitioner's physical health, if he is released on bail so that he can take appropriate treatment at his own level. Moreover, in such condition, the presence

contribute towards the improvement in his health condition.

Besides, the petitioner has undergone incarceration for a period of 03 years and 04 months and only 9 out of 16 witnesses have been examined so far. There is no other case much less than under NDPS Act registered against the petitioner. Even in the decision in Amit Singh Moni's case (supra) the bail was granted to an under trial with regard to the case pertaining to recovery of commercial quantity after he had undergone actual custody of 02 years and 07 months.

In these set of circumstances, particularly keeping in view the health condition of the petitioner, the ends of justice will meet if the petitioner is extended the concession of bail.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

13.10.2021
renubala

(VIVEK PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No