

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

120

**CRM-M-26246-2021
Date of Decision : 02.08.2021**

Shankar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Gurdarshan S. Sidhu, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. A.G. Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present petition under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of interim bail in case FIR No.87 dated 04.04.2019 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Civil Lines, Sirsa on the ground of his own serious illness.

The application has been opposed by learned State Counsel in terms of medical report of the petitioner sent through e-mail print out of which is taken on record. However, no reply to the petition has been filed by the respondent-State.

I have heard learned Counsel for the petitioner as well as learned State Counsel and have gone through the relevant record.

Learned Counsel for the petitioner has submitted that the

petitioner has been falsely implicated in the case in which he is in custody since 04.04.2019. The petitioner suffered infection of Covid-19 in jail and is suffering from various after effects of Covid-19 like breathing problem due to infection in lungs and acute weakness etc. Many swollen lymph nodes have appeared on the chest of the petitioner. The petitioner is under acute depression and worried as the lymph nodes due to cancer. The doctors who treated the petitioner advised his thorough medical check-up. Therefore, the petitioner may be granted interim bail for a period of three weeks to get proper medical treatment.

On the other hand, learned State Counsel has vehemently opposed the application and submitted that the petitioner was medically examined by Medical Officer, District Prison, Sirsa on 26.07.2021 and his general condition was found good. Presently the petitioner is not having any fresh complaint and injury. The petitioner, who is accused of having illegally kept commercial quantity of contraband in his possession, does not deserve grant of interim bail and the petition may be dismissed.

A perusal of medical report of the petitioner shows that the petitioner was found Covid Positive on 12.05.2021 and he was referred to Civil Hospital, Sirsa on the same day. He remained admitted there w.e.f. 12.05.2021 to 26.05.2021. Even though, the petitioner is being provided requisite treatment during his detention in custody but the petitioner has claimed that he has post Covid side effects of problems in breathing and appearance of lymph nodes which may be of cancerous origin and thorough medical check-up of the petitioner is required.

Medical Officer, Prison, Sirsa has not mentioned that any such thorough medical check-up of the petitioner was conducted during his detention in jail. In the very nature of things, the petitioner requires thorough medical check-up and specialised medical treatment for his post Covid ailments. It may be observed here that even on conviction and sentence for conscious possession of commercial quantity of contraband, Section 3(1)(a) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 permits temporary release of a prisoner on parole on the ground of his serious illness. In view of the facts and circumstances of the case, I am inclined to extend the concession of interim bail to the petitioner for the purpose of his treatment.

Accordingly, the petition is allowed and the petitioner is ordered to be released on interim bail for a period of three weeks from the date of receipt of copy of this order on furnishing of personal and surety bonds by him to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

02.08.2021

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No