

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28280-2021

Date of decision: - 29.07.2021

Hardeep Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Amandeep Singh, Advocate,
for the petitioner.

Ms. Jaspreet Kaur, Assistant Advocate General, Punjab.
(keeping in view the advance copy given).

Mr. Manuj Nagrath, Advocate
for the complainant.

(Through Video Conferencing)

HARSIMRAN SINGH SETHI, J. (ORAL)

Present is the sixth petition filed under Section 439 Cr.P.C for the grant of interim regular bail to the petitioner in respect of FIR No.61 dated 30.04.2017, registered under Section 302 read with Section 34 IPC and Sections 25/27/54/59 of the Arms Act, 1959, at Police Station Sadar Raikot, District Ludhiana Rural.

Learned counsel for the petitioner argues that the petitioner is entitled for the grant of interim regular bail keeping in view the directions of the High Powered Committee dated 11.05.2021, which have been issued keeping in view the Pandemic of Covid-19. Learned counsel for the petitioner further argues that the petitioner has already moved an

application/representation dated 18.06.2021 (Annexure P-5) in this regard before the authorities, but nothing has come out of the same and the prayer of the petitioner for the grant of interim bail on the basis of the directions of High Powered Committee has been declined by the trial Court, hence, the petitioner has approached this Court for the grant of interim bail.

Notice of motion.

Ms. Jaspreet Kaur, Assistant Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of respondent-State.

Learned State counsel submits that in case the petitioner is aggrieved against the non-decision of his application dated 18.06.2021 (P-5) filed for the grant of interim bail on the basis of the criteria fixed by the High Powered Committee in its meeting dated 11.05.2021, he should approach the said Committee first for the redressal of his grievance rather than filing of the present petition.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The reliance placed by the petitioner is on Clause 7 of the recommendations of the High Powered Committee dated 11.05.2021, according to which the Judicial Officers have been given power to screen the cases for the grant of interim bail and while screening, the criteria fixed by the High Powered Committee is to be kept in mind. The relevant Clause 7 of the recommendations being relied upon by the petitioner are

as under: -

“7. Release of under-trial prisoners on interim bail:

ADGP, Prisons briefed the Chair that certain criterion were fixed in 1st, 2nd and 3rd HPC meetings held in the year 2020 for releasing under-trial prisoners on interim bail. The process of releasing prisoners on interim bail was stopped w.e.f. 12.02.2021. However, in wake of exponential rise in COVID cases across the country and in pursuance of the directions of hon'ble Supreme Court of India dt. 07.05.2021, need for decongesting the prisons through release of prisoners on interim bail is desirable.

Decision:

(a) The HPC recommends that all concerned judicial officers may again start taking up the cases for releasing under-trial prisoners on interim bail w.e.f. 15.05.2021, on the basis of criterion fixed by HPC from time-to-time for release of prisoners on interim bail have been compiled at a single place and attached as **Annexure-B**. This criterion may be followed and undertrial prisoners released accordingly.”

A bare perusal of the above would show that Clause 7 of recommendations is not a direction issued by the High Powered Committee to the Judicial Officers to immediately release the prisoners, but is only a recommendation to the Judicial Officers as to what criteria should be kept in mind while considering the petition/prayer of a prisoner in case he/she files a petition seeking release on interim bail due to Pandemic of Covid-19. Nothing has been pointed out by the learned counsel for the petitioner that the recommendation of the High Powered Committee dated 11.05.2020 is to be followed by the Judicial Officers without going into the actual facts and circumstances of a particular case including the nature of the allegations alleged against the accused in the

FIR and the role attributed to the said accused. The recommendation of the High Powered Committee is an executive decision, recommending certain criteria to be adopted for considering the prayer for the grant of interim bail keeping in view the Pandemic of Covid-19 so as to minimize the overcrowding of the jails so as to contain the spreading of Pandemic in jails, which has to be kept in mind while considering the application of an accused seeking interim bail. The criteria fixed by the High Powered Committee is only recommendatory and does not bar the trial Court to deny the benefit of interim bail to an accused in a particular case by specifying justifiable reasons, if the trial Court is of the view that the releasing a particular prisoner on interim bail will not be in a public interest or the same will influence trial being undertaken in the said case coupled with the fact that Court is of the opinion that the health and fitness of the said accused can be properly taken care of even in custody. The contention of the learned counsel for the petitioner that the trial Court is bound to release the petitioner by a mechanic application of the recommendation of the High Powered Committee and that too by completely ignoring the facts and circumstances of the case including the allegations against the accused as well as conduct of the said accused, cannot be accepted.

The Hon'ble Supreme Court in **IA No.48260 of 2020** in **Suo Moto Writ Petition (Civil) No.1 of 2002** has observed that the prisoners are not to be compulsorily released. Relevant para of the order dated 13.04.2020 is as under: -

“We make it clear that we have not directed the States/Union

Territories to compulsorily release the prisoners from their respective prisons. The purpose of our aforesaid order was to ensure the States/Union Territories to assess the situation in their prisons having regard to the outbreak of the present pandemic in the country and release certain prisoners and for that purpose to determine the category of prisoners to be released.”

Nothing has been placed before this Court to show that the petitioner is feeling prejudice in the jail due to the Pandemic of Covid-19 in any manner. The only thing pointed out before this Court by the petitioner is that he is diabetic. In the absence of any averment that there is a danger to life of the petitioner in case he is kept in jail, merely on the guidelines issued by the High Powered Committee, which are recommendatory in nature, the petitioner cannot claim the benefit of interim bail as a matter of right de hors the allegations alleged against him in the FIR.

The facts and circumstances of this case show that the petitioner has filed six petitions in continuation on one pretext or the other for the grant of regular bail and his intention is to get out of the jail premises on one account or the other, which fact cannot be ignored while considering the plea of the petitioner, who is facing allegations under Section 302 of the IPC read with provisions of the Arms Act.

The order dated 24.05.2021 (Annexure P-6) passed by the Additional Sessions Judge, Ludhiana takes care of the plea of the petitioner with regard to the grant of interim bail on the basis of the decision of the High Powered Committee dated 11.05.2021 and the learned counsel for the petitioner has not been able to point out any

illegality in the findings recorded in para 10 of the said order.

Keeping in view the above, no ground is made out to grant the petitioner the benefit of interim regular bail.

Dismissed.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

July 29, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No