

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

CRM-M-32202-2020 (O&M)

Date of decision: 25.01.2021

Balwant Ram

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

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

Mr. M.S. Nagra, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The petitioner has filed this second petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 0098 dated 07.10.2019 registered under Section 22 of NDPS Act, 1985, at Police Station Kathgarh, District SBS Nagar.

Learned counsel for the petitioner submits that the alleged recovery of 35 injections of Buprenorphine and 35 intoxicant vials of Avil was effected from the petitioner. There is no other case against him and the petitioner is a known case of HIV infection. The petitioner has been in custody since 07.10.2019.

In compliance of the order dated 21.12.2020 passed by this Court, learned State counsel has submitted a short reply by way of affidavit dated 24.01.2021 of Superintendent, Central Jail, Ludhiana, alongwith medical report dated 15.01.2021 of the petitioner issued by the Medical Officer, Central Jail, Ludhiana. The same is taken on record.

Copy of custody certificate by way of affidavit dated 25.01.2021 of the Deputy Superintendent, Central Jail, Ludhiana, submitted by the learned State counsel through email, is also taken on record.

Learned State counsel while opposing the prayer for bail states that in view of the bar contained in Section 37 of the NDPS Act, the petitioner is not entitled to be enlarged on bail. However, he does not dispute the custody period and the medical condition of the petitioner. Even as per the custody certificate, there is no other case registered or pending against the petitioner. Challan has been presented and out of 11 prosecution witnesses, only 4 have been examined so far.

I have heard the learned counsel for the parties and gone through the record.

As per the medical report, the petitioner is a known case of HIV Infection and has been taking ART treatment from Civil Hospital, Ludhiana, since 23.12.2019. The petitioner has been in custody since 07.10.2019. Trial of the case would take time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the submissions made by the learned counsel for the petitioner coupled with the medical condition of the petitioner, which may

likely deteriorate due to widespread transmission of Covid-19, and the fact that he has been in custody since 07.10.2019, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

25.01.2021

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No