

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

210

CRM-M-33722-2020

Date of decision: 03.03.2021

Kulvir Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Fatehjeet Singh, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. D.A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present (third) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.114 dated 25.07.2018 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station Goraya, District Jalandhar to which Section 29 of the NDPS Act was added lateron.

His first petition for grant of regular bail was dismissed as withdrawn vide order dated 30.04.2019 while second petition for grant of regular bail was dismissed on merits vide order dated 29.01.2020.

Custody certificate has been filed by the learned State Counsel today in Court which is taken on record.

The petition has been opposed by the learned State Counsel. However, no reply has been filed by the respondent-State.

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

Learned Counsel for the petitioner has submitted that

despite directions given by this Court for expediting the trial of the case, the prosecution evidence has not yet been concluded. Father of the petitioner is suffering from serious ailments and his surgery is required. The petitioner also has three minor children to look after. The petitioner is in custody since 25.07.2018. The trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19. No useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

In support of his arguments, learned Counsel for the petitioner has placed reliance on the observations made by Hon'ble Supreme Court in its judgment passed in ***Criminal Appeal No.245/2020 titled as 'Chitta Biswas alias Subhas Vs. The State of West Bengal decided on 07.02.2020*** and by this Court in judgments passed in ***CRM-M-906-2020 titled as 'Jorawar Singh Vs. State of Punjab' decided on 14.01.2021*** and ***CRM-M-6687-2020 titled as 'Avtar Singh Vs. State of Punjab' decided on 09.02.2021***.

On the other hand, learned State Counsel has submitted that the petitioner is accused of having kept in his conscious possession commercial quantity of heroin. Rigors of Section 37(1)(b) of the NDPS Act are applicable to the case. The petition for grant of regular bail filed by the petitioner earlier was dismissed on merits vide order dated 29.01.2020. No new ground for grant of regular bail to the petitioner is made out. Therefore, the petition may be dismissed.

In ***Gajanand Aggarwal Vs. State of Orissa and others : 2006 (4) RCR (Criminal) 311 decided on 18.09.2006***, it was observed

by Hon'ble Supreme Court that orders granting bail are not orders of any precedent value.

In the present case the second petition for grant of regular bail filed by the petitioner was dismissed on merits vide order dated 29.01.2020. As per medical certificate dated 14.08.2020 father of the petitioner was diagnosed as a case of 'fissure in ano' and requires hospitalisation and surgical treatment. During any such hospitalisation and surgical treatment father of the petitioner can be looked after by his wife and other members of the family. There is no material change in the facts and circumstances of the case on appreciation of which the second petition for grant of regular bail was dismissed on merits. Consequently, no new ground for grant of regular bail to the petitioner is made out.

In view of the above, the present petition for grant of regular bail to the petitioner is hereby dismissed.

03.03.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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