

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

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CRM-M-18371-2021(O&M)
Date of Decision : May 10, 2022

HARJIT SINGH @ GONDER

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. L.M.Gulati, Advocate for
Ms. Jasneet Mehra, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.28 dated 19.2.2020 under Sections 302, 394, 323, 148, 149, 379-B, 398 IPC, registered at Police Station Lapoke, District Amritsar.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 13.4.2020 which is more than 2 years and the investigation of the case has been completed and now the case is at the stage of prosecution evidence. He submitted that it is a case where FIR was lodged on the basis of a complaint made by the complainant against some unidentified persons and thereafter the name of petitioner was nominated in the present case on the basis of his alleged confessional statement made in some other case i.e. FIR No. 70 dated 12.4.2020 under Sections 379, 499 IPC and Section 25 of the Arms Act,

Police Station Lapoke. He further submitted that the entire case is based upon circumstantial evidence and there is no direct role attributable to the petitioner and even otherwise also the petitioner is not involved in any other case except the aforesaid case and in that aforesaid case the petitioner did not make any statement to the police and it was only because of that case that the petitioner has been nominated in the present case. He submitted that even as per the prosecution the only material witness in the present case is one Jugraj Singh, who has since been examined.

Learned counsel for the petitioner has further put much emphasis on the medical condition of the petitioner. He has submitted that the petitioner is suffering from acute disease of Hepatitis C Virus (HCV) with a history of Tuberculosis and incomplete anti-tubercular treatment and his medical condition has been further complicated by the mild degree of dilation of blood vessels in the esophagus and there is enlargement of inguinal lymph node. He submitted that in view of the aforesaid enlargement of the lymph node the petitioner had been repeatedly oozing out blood from his throat and he got treated from the Government Medical College and was also taken to PGI for treatment. He further submitted that this Court has also directed the State to file an affidavit and to state as to what was the medical condition of the petitioner and had also directed the Secretary, District Legal Services Authority, Faridkot to visit the jail premises and to give the report. He submitted that apart from the same once the material witness has been examined then considering the aforesaid facts and circumstances, the

petitioner may be considered for the grant of regular bail.

On the other hand, the learned State counsel has submitted that it is correct that the petitioner is in custody from 13.4.2020 which is more than two years and one witness, namely, Jugraj Singh has since been examined and so far as the medical condition of the petitioner is concerned, the same has not been disputed by the learned State counsel particularly in view of the report sent by the learned District and Sessions Judge, Faridkot as directed by this Court. He has also submitted that the petitioner is not involved in any other case except the aforesaid case in which the petitioner had made a confessional statement pertaining to his involvement in the present case.

I have heard the learned counsels for the parties.

In the present case, the petitioner is facing incarceration for more than 2 years and FIR was lodged against 4 unidentified persons and thereafter as per the prosecution the petitioner had made confessional statement in some other case and that was the reason as to why he was involved in the present case. The material witness in the present case appears to be one Jugraj Singh who is stated to identify the petitioner has since been examined. For the purpose of considering the bail application of the petitioner, his medical condition is also required to be considered.

Earlier this Court had directed the State to verify the medical condition of the petitioner and affidavit was also filed by the State that the petitioner was suffering from disease and was being treated from the Government Medical College and Hospital, Faridkot and he was also taken to the PGI for treatment. However, on 6.5.2022, the learned

counsel for the petitioner has pointed out that the petitioner was still oozing out blood from his mouth and, therefore, this Court had directed the Secretary, District Legal Services Authority, Faridkot to immediately visit the jail premises and to confirm the same and also regarding his overall medical condition. Thereafter now a report has been received from the District and Sessions Judge, Faridkot in which it has been stated that initially the learned Additional Sessions Judge, Faridkot was immediately deputed to visit the jail premises and to submit the report and thereafter even the Secretary, District Legal Services Authority, Faridkot also apprised the Sessions Judge with regard to the fact that he also visited the jail premises and submitted his report. As per the report regarding the condition of the petitioner he was diagnosed with Hepatitis C Virus (HCV) with a history of Tuberculosis and incomplete anti-tubercular treatment and his medical condition has been further complicated by the mild degree of dilation of blood vessels in the esophagus and inguinal lymph node enlargement. The learned counsel for the petitioner has pointed out that again the petitioner has been taken to PGI where again treatment was given to him.

The petitioner is still under treatment. He is being repeatedly sent to different Government Hospitals and PGI. He has already undergone more than 2 years of incarceration. The material witnesses, namely, Jugraj Singh has been examined. Therefore, this Court is of the considered view that considering the aforesaid totality of the circumstances especially serious medical condition of the petitioner, it is just and proper to grant bail to the petitioner.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

May 10, 2022
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No