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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-19331-2022 (O&M)**

Date of decision:26.05.2022

JASVIR KAUR

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKURPresent: Mr. Hitesh Verma, Advocate
for the petitioner.

Mr. Harpreet Singh Multani, AAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant petition cast under Section 439 of Cr.P.C., the present bail petitioner craves indulgence qua hers being admitted to interim regular bail, lasting upto a tenure of 8 weeks. The above prayer is made in respect of FIR No.70 of 07.06.2021, registered at Police Station Tappa Mandi, District Barnala, wherein, offences constituted under Sections 22, 25 of NDPS Act, are embodied.

2. Though, from a bare glance, and, reading of the mandate of Section 439 of Cr.P.C., there is no provision therein qua any relief of interim bail being granted, in respect of a judicially incarcerated accused, but may be in certain expedient circumstances, the judicially incarcerated accused, may ask for his/her being released, on medical grounds either personal or becoming entailed, upon the closest relatives concerned. However, the above relief has to fall within the contours of the guidelines in respect thereof, as made by the Hon'ble Apex Court, in tandem wherewith,

the hereafter extracted order was made by this Court.

3. Be that as it may, the petitioner's minor son is, as unfolded by Annexure R-3 suffering from Rectal Prolapse, and, may require his becoming operated. Therefore, in respect of personal caregivings to her minor son, the present bail petitioner seeks indulgence of hers being released on interim regular bail.

4. The above asked for relief may have been granted, only if within the contours, of the hereinafter extracted order, as made by this Court, on May 13, 2022, it becoming also opined by the Medical Practitioner concerned, that the release from prison of the present bail petitioner, becoming necessitated, rather for hers ensuring personal caregivings, and, personal attendances upon her ailing minor son.

“1. The learned State counsel is directed to file, reply on affidavit, to the petition, revealing therein the gravity of the medical problem besetting the four years old son of the petitioner, and, also detailing therein that the medical problem besetting the minor son of the petitioner, cannot become alleviated through his being treated either within the prison hospital or, upon his being taken to the hospital concerned, and, that it can be only alleviated only through personal care, and, attendance being made upon the minor son of the petitioner, only by the present petitioner.

2. List on 26.05.2022.”

5. However, the medical ailment besetting the minor son, as unfolded in Annexure R-3 when requires surgery, therefore, he is to be operated upon, by the Surgeon concerned, and, thereafter when even during the period of his convalescence, the optimum caregivings would be given to him, by the doctors, as well as by paramedical staff available at the hospital

concerned. Consequently, the personal caregivings by the petitioner to her minor son does not become necessitated at all. Moreover, even if some personal caregivings are to be given to the minor son of the petitioner, the same are available to be given by his paternal grandmother, who is aged about 55 years, and, is stated to be completely free from any ailment.

6. Nonetheless this Court is to act as *parens patriae*, towards the minor son, and, for ensuring that the above solemn duty, becomes completely revered by this Court, this Court directs the respondent-State, to ensure, that as, and, when the minor son requires his being operated, upon, it shall ensure, that best caregivings are meted to him, by the most proficient surgeons at the PGIMS, Chandigarh at/or some other hospital, and, shall also ensure, that optimum paramedicCare, and, nursings are provided to him at PGIMER Chandigarh or any other best medical institution. The State of Punjab shall bear all the expenses towards the transporting of the minor son of the bail petitioner from his native home upto PGIMER Chandigarh or any other best medical institution, and, shall also bear all expenses towards his medicines, paramedicCare, nursings besides, expenses towards operation, and, also expenses towards his diet. Moreover, unless the doctor advises his being shifted from the hospital to his abode, rather even during the period of his convalescence in hospital, the State of Punjab shall bear all the requisite expenses. Subsequent to his being discharged from hospital, the travelling cost, from PGIMER Chandigarh or from any other best medical institution, to his native home, shall also be borne by the State of Punjab. However, the petitioner may give schedules to the Superintendent of Police concerned, about the dates of hers visiting her minor son, at PGIMER Chandigarh, or any other best medical institution, and, on such schedules the

Superintendent of Police concerned, shall deploy armed escorts along with her to PGIMER Chandigarh or any other best medical institution, to ensure, that the petitioner meets her minor son, and, thereafter shall ensure, that armed escorts accompanying the present bail petitioner, retrieve her, to the prison concerned. The expenses towards the travel of the armed escorts, and, also of the present bail petitioner shall also be borne by the State of Punjab.

7. Disposed of accordingly.

8. Since the main case itself has been disposed of, therefore, no fresh order is required to be passed in the pending miscellaneous application(s), and, the same also stand(s), disposed of.

26.05.2022

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(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No