

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-27115-2021

Date of decision:19.01.2022

Chamkaur Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. A.S. Brar, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

Heard through video conferencing.

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.102, dated 28.06.2019 registered for offence under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short- “the NDPS Act”) at Police Station Nihal Singh Wala, District Moga, Annexure P-1.

FIR, Annexure P-1, came to be registered when on suspicion two persons were apprehended and recovery of 2780 tablets of contraband were recovered from them.

Counsel for the petitioner submits that the first petition filed by the petitioner was withdrawn, after arguments, on 10.02.2021 with liberty to approach the Sessions Court and the prayer made by the petitioner before the Special Court was declined vide order dated 08.03.2021, Annexure P-4. Counsel submits that the petitioner was

released on interim bail for a period of 03 months and he never misused the concession. Counsel asserts that the petitioner, who is more than 75 years of age, has health issues and continues to be on medication. He submits that vide order dated 22.07.2021, this Court directed the State to get him medically examined and a report was called for. He has referred to the report dated 28.10.2021 submitted by the Medical Officer, Jail Hospital, Faridkot, relevant extract of which is reproduced as under:-

“With reference to above cited subject and on the basis of medical assessment and perusal of past medical record, it is hereby submitted:

1. That the above said patient is a diagnosed case of hypertension & Diabetes, for which he is continuing with prescribed medications.

2. That he also has a history of Bypass Surgery for heart disease, in the year 2009.

3. That he is currently medically stable, and he needs to continue with the prescribed treatment and needs to be followed up on OPD basis. No further medical intervention is currently indicated.

From:

Medical Officer

Dated:28/10/2021. Jail Hospital, Faridkot.”

Still further, it is his contention that despite the fact that the petitioner is in custody since 28.06.2019, the trial is not progressing. The co-accused, Satnam Singh, has expired, and the petitioner deserves to be released on bail, moreso in view of the outbreak of the third wave of the pandemic.

Per Contra, upon instructions from ASI Surjit Singh, State counsel has opposed the petition and submitted that 2600 tablets were recovered from the petitioner, which were found to be containing 216 grams of *Alprazolam*, which falls within the ambit of commercial quantity and 233.4 grams of *Tramadol Hydrochloride* salt. Counsel

submits that the bar as contained under Section 37 of the NDPS Act is attracted and the petitioner is not entitled to be released on bail. However, State counsel could not deny that no prosecution witness has been examined.

I have considered the submissions made by counsel for the parties.

Though the age of the petitioner has not been established, yet it cannot be disputed that he is of an advanced age. He has hypertension and diabetes and has been advised to continue with the prescribed treatment and needs a regular follow up in the OPD. Because of co-morbidities, he is highly susceptible to the contagion currently spreading at an alarming rate during the third wave of Covid-19.

Keeping in view the above circumstances, period of incarceration of more than 02 years and 03 months and the fact that there is a tardy progress in the criminal case, the petitioner deserves to be admitted to bail pending trial.

Without examining the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing heavy bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

19.01.2022
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No