

**Sr.No.102**

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

**CRM-M-35007-2022**

**Date of decision:17.08.2022**

**Sameer Khan**

**... Petitioner**

**versus**

**State of Haryana**

**... Respondent**

**Coram: Hon'ble Mrs. Justice Manjari Nehru Kaul**

**Present:** Mr.Kamal Chaudhary Advocate  
for the petitioner.  
Mr. Rohit Arya, DAG, Haryana  
for the respondent/State.  
Mr. Vikas Kumar, Advocate  
for the complainant.

**Manjari Nehru Kaul, J.(Oral)**

The present third petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.683 dated 26.11.2020 registered under Sections 323, 324, 341, 379-B, 427, 506, 34 of the Indian Penal Code, 1860 (later on Section 326 of IPC added) at Police Station Mujesar, Faridabad.

Learned State counsel has placed on record the report of the Medical Officer of District Jail, Faridabad, alongwith other related medical reports of the petitioner.

This Court vide order dated 09.05.2022 had extended the

concession of interim bail for three months on medical grounds to the petitioner in view of the serious condition as stated in the medical report of the Medical Officer of the Jail doctor.

Learned counsel for the petitioner submits that the condition of the petitioner continues to be serious and rather has only worsened in the last couple of months and he thus, requires constant nursing care which would not be possible inside the jail. It has further been submitted that the petitioner has been in custody for more than 01 year 08 months having been arrested on 02.12.2020 and there is no likelihood of the trial concluding in the near future as only the complainant stands examined out of the 18 prosecution witnesses cited. It has been prayed that further incarceration of the petitioner would not serve any useful purpose and there cannot be any apprehension of the witnesses being influenced as the complainant already stands examined coupled with the serious health of the petitioner.

Per contra, learned State counsel assisted by learned counsel for the complainant has opposed the prayer of the petitioner. Learned State counsel has however, not disputed that complainant stands examined before the Trial Court and the condition of the petitioner is indeed very serious as he is even presently admitted in the general

surgery ward at Civil Hospital, Faridabad,

Learned counsel for the complainant submits that no doubt the petitioner is hospitalised but in view of the role attributed to him i.e. severing the ear of the complainant and causing injuries on the head, he may not be extended the concession of bail.

Heard learned counsel for the parties and perused the relevant material on record.

The petitioner was granted interim bail on medical grounds on 09.05.2022 on the basis of the following report of the Medical officer:-

*“After examination by the jail medical officer and after giving primary necessary treatment, we referred him to Civil Hospital, Faridabad for specialist opinion and as per prescription by specialist doctor's Civil Hospital, Faridabad the same treatment was provided in jail hospital.*

*Inspite of medicine the symptoms of the patient was not relieved after that doctors of the Civil Hospital Faridabad referred him to Safdarjung Hospital New Delhi for further management and treatment where he was admitted from 10.11.2021 to 26.02.2022.*

*In Safdarjung Hospital New Delhi, he was diagnosed with perforation with entero atmosphric fistula with koch's abdomen peritonites and his exploratory laporotomy under general anesthesia with urobag laparostomy with peritoneal lavage was done.*

*His intra operating findings were multiple small bowel perforations with abdominal cocoon formation was present.*

*For the same he was admitted there and discharged on dated 26.02.2022. Medical reports from Safdarjung Hospital New Delhi are attached here with.*

*At present patient is admitted in Civil Hospital Faridabad from 11.04.2022 to till date, as the patient overall general condition was serious and he is a case of koch's abdomen that is tuberculosis with perforated abdomen.”*

As per the affidavit of the Medical Officer, dated 16.08.2022, the petitioner has been hospitalised since 27.07.2022. It would be apposite to reproduce the reports of both the Medical officer, District Jail, Faridabad, as well as Medical Officer (Surgery), Civil Hospital, Faridabad:-

**Medical Report by the Medical Officer of  
District Jail, Faridabad**

*Regarding undertrial prisoner who released  
on interim bail*

*Mr. Sameer S/o Mr. Imamudeen (UT-  
4191/2020)*

*Medical report by the Medical  
Officer of District Jail, Faridabad as per the  
record available in hospital District Jail,  
Faridabad. Patient is a known case of  
perforation with enteroatmospheric fistula and  
koch's abdomen operated on 12.11.2021 from  
Safdarjung Hospital, New Delhi. At that time  
he was managed with exploratory Laprotomy  
with urobag laprostomy and managed with total  
parenteral nutrition and anti tubercular drugs  
and daily managed with parenteral wash, chest  
physiotherapy and during treatment patient  
developed Covid-19 infection for which he was  
managed in I.C.U. In the same hospital, he  
admitted in Safdarjung Hospital, New Delhi  
from 11.11.2021 to 26.02.2022 and after  
discharged from Safdarjung Hospital, New  
Delhi. He sent back to jail hospital but he  
complained severe abdominal pain no oral feed  
and not able to walk not able to urinate and in*

*view of his health issues we referred him to Civil Hospital, Faridabad. On dated 28.02.2022 as patient not responding to out medicines and [Patient needs higher medical institution treatment he was admitted there and after the order of Hon'ble Court patient released on interim bail from Civil Hospital Faridabad at that time when we referred the patient (28.02.2022) General condition was sick as the patient diseased was not manageable in jail hospital.*

*At present patient on interim bail.*

*And*

*I, Dr. Sandeep Beniwal, Medical Officer (Surgery), Civil Hospital, Faridabad, hereby solemnly affirm as under that :*

*1) CRM-M No.35007 of 2022 of Sameer Khan vs. State of Haryana, is due for hearing before the Honourable High Court of Punjab and Haryana, Chandigarh on 17/08/2022.*

*2) An application has been moved by the Sh. Mahesh Kumar, ASI, PS Mujesar, Faridabad regarding medical condition of accused Sh. Sameere Khan S/o Sh. Imammudin, R/o Village Gochi, PS Mujesar, Faridabad on 12/08/2022.*

*3) Patient Sh. Sameer Khan 21/Male is admitted in the general surgery ward at Civil*

*Hospital, Faridabad w.e.f. 27/7/2022 to till date.*

*4) Patient is known case of Enterocutaneous Fistula with Koch's abdomen.*

*5) Patient was operated on 12/11/2021 at Safdarjung Hospital, New Delhi where Exploratory Laprotomy with Peritoneal lavage under general anaesthesia was performed for perforation peritonitis secondary to koch's abdomen. He was discharged from Safdarjung Hospital on 26/02/2022.*

*6) At present the general condition of the patient is very poor. He is on intravenous fluids; inject able anti-biotic and other supportive treatment. Patient requires continuous nursing care in the form of routine medicines and fistula dressing.”*

A perusal of the latest reports of the petitioner clearly reveals that his health continues to be serious and poor for which he requires continuous medical care and as also reported by the Jail Doctor would not be manageable in the Jail Hospital. The material witness i.e. the complainant already stands examined and the remaining 17 prosecution witnesses have not yet been examined, the trial will take considerable time to conclude. The petitioner has been in custody since

02.12.2020; it is apparent from his medical reports that his health has not shown any improvement, this Court thus, in the facts and circumstances, deems it appropriate to admit him to bail subject to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

**17<sup>th</sup> August, 2022**

**[MANJARI NEHRU KAUL]**

Shivani Kaushik

**JUDGE**

Whether speaking/reasoned      Yes/No

Whether Reportable              Yes/No