

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(206/A)

CRM-M-10255-2022

Date of Decision: 22.02.2023

Jagwinder Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. J.S. Dhaliwal, Advocate for the petitioner.

Mr. Sandeep Kumar, D.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.0059 dated 29.9.2021 under sections 22(c), 25, 61, 85 of N.D.P.S Act, registered at Police Station, Jaurkian, District Mansa.

As per factual matrix, FIR in question was registered on the statement made by ASI Baljeet Singh, wherein it was alleged that they were on patrolling duty. On suspicion they stopped two Hindu gentlemen coming on the motorcycle and a polythene bag was seen hanging on the motorcycle. The one who was driving the motorcycle told his name as Badal Singh, whereas the another one riding the pillion told his name as Jagwinder Singh i.e. the present petitioner. They were given offer under Section 50 of NDPS Act to be searched in the presence of Illaqa Magistrate. After completion of formalities the polythene bag was searched and the same was found containing 280 strips of Tramwel-100 SR. The total quantity of 2800 tablets was recovered. The offence under Section 22(c) of NDPS Act was found to have been committed and FIR was registered. Both the accused were

arrested. The samples taken were sent to the FSL.

The petitioner approached the learned Judge, Special Court, Mansa for grant of bail, however, after hearing the parties, the same was declined vide order dated 29.11.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that petitioner is neither the owner of the motorcycle nor he was driving the same, however, he was riding the pillion. It is submitted that the alleged polythene bag was recovered from the motorcycle and not from the possession of the petitioner. Counsel submits that petitioner, who is 29 years of age, is a chronic patient of HIV and he is not getting the proper medical treatment in the jail. It is submitted that the medical condition of the petitioner may be taken into consideration for consideration of his bail.

Learned State counsel was directed to file a status report explaining the medical condition of the petitioner.

Learned State counsel has filed the status report, wherein it has been mentioned as follows:-

“It is certified that accused Jagwinder Singh son of Neta Singh resident of village Jaga Ram Tirath, District Bathinda, District Mansa is now confined in District Jail Mansa in case FIR No.59 dated 29.9.2021 u/s 22(C)/27/61/85 NDPS Act, Police Station, Jaurkian.

Patient Jagwinder Singh was found reactive for Hepatitis-C during screening of prisoners on admission to jail and Hepatitis screening conducted in Jail from 23.9.2022 to 30.9.2022. Samples for his further investigation (HCV RNA viral load, CBC, LFT, RFT) was collected and sent to Civil Hospital, Mansa and reports of which has been received. Consultation with MD Physician

was done at Civil Hospital, Mansa and he was referred to higher centre for management of Hepatitis. Patient will be referred to Rajindra Hospital Patiala and treatment will be started as per their advice.

Patient is a known case of HIV for which he is on Anti retroviral treatment from ART Centre Civil Hospital Mansa.

Patient is also case of drug abuse for which he is under treatment from jail visiting Psychiatrist from CH Mansa and on treatment from OOAT Clinic, District Jail, Mansa.

Patient presented to District Jail Mansa on 23.9.2022 with complaint of pain and numbness in bilateral foot. Patient was referred to CH Mansa on 24.9.2022 and appropriate treatment was provided.

Currently patient is calm, conscious, oriented to time, place and person. His vitals are within normal limits. Patient is taking medication as advised by psychiatrist, OOAT clinic.”

Learned State counsel on instructions from SI Amrik Singh has further submitted that though the petitioner is a patient of HIV, however, he is being treated in jail. He submits that petitioner is involved in two more cases. It is further submitted that after framing of charges, case is fixed for recording evidence of prosecution witnesses on 27.2.2023.

I have heard learned counsel for the parties at length and have gone through the records carefully.

As per the case of prosecution, the contraband recovered from the petitioner falls in the commercial category, however, the status report filed by the State would reveal that the petitioner is a chronic patient of HIV and he is getting treatment and is on anti retroviral treatment from ART Centre, Civil Hospital, Mansa. Investigation in the case is complete and charges stand framed. This court would take into consideration the custody of the petitioner at this stage in the light of his medical condition which is

submitted in the status report.

This court would refrain itself from commenting anything on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

22.02.2023
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No