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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.18770 of 2022 (O&M)
Date of decision : 06.12.2023

Satnam

Versus

....Petitioner

State of Haryana and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr. Sandeep Kotla, Advocate
for the petitioner.

Mr. Munish Sharma, DAG Haryana.

SUVIR SEHGAL, J. (ORAL)

1.

Instant petition has been filed under Section 439 Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
792	19.11.2021	Old Industrial, Panipat.	Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Annexure P-1)

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FIR Annexure P-1 has been registered on the basis of secret information that Satnam Singh, is carrying on trade of intoxicants from his residential house. His house was raided, Ram Gopal was apprehended and recovery of 20 Kgs and 750 Gram of Ganja was effected from him.

3.

Learned counsel for the petitioner urges that petitioner has been arraigned as an accused on the basis of the disclosure statement of co-accused and after apprehension on the basis of petitioner’s statement, recovery of 8 Kgs and 170 Gram of Ganja was effected from his house. Learned counsel for the petitioner submits that the recovery effected from

the petitioner falls within the ambit of non-commercial quantity and the petitioner deserves to be enlarged on bail as he is ailing. He has made a reference to the report given by the Medical Officer, District Jail, Panipat to support his submission. He submits that by order dated 17.03.2023, petitioner was enlarged on interim bail by this Court, which is continuing and his medical condition has not improved. Prayer has been made that the interim order, be confirmed.

4. Status report by way of affidavit of Dharamvir Singh, HPS, Deputy Superintendent of Police, Head Quarters, Panipat dated 01.12.2023 has been filed by the respondent-State in compliance of the order passed by this Court, which is taken on record. Petition has been opposed by the State counsel on the ground that the total recovery effected is more than 28 Kgs of Ganja and the bar under Section 37 of the Act is attracted. He has also submitted that the petitioner is involved in two other cases for offences under the NDPS Act.

5. Heard, counsels for the parties and considered the respective submissions.

6. Along with the status report, Certificate from the Medical Superintendent, Department of Neurology, LSL, Super Speciality Center, PGIMS, Rohtak dated 10.10.2023 has been appended, which is as under:-

“No.Neuro/23/1587 Dated: 10.10.2023
To,
The Medical Superintendents
Pt. B.D.Sharma, PGIMS
Rohtak,

Sub: Special Medical Board Examination for medical condition of Petitioner Satnam S/o Kirpal Singh, aged 50 yrs R/O Batra Colony, Distt. Panipat in case FIR No.792 dated 19/11/2021 u/s 20 NDPS Act, 1985 P.S. Old Industrial, Panipat as per orders of the Hon’ble Punjab and Haryana

High Court, Chandigarh dated 6/9/2023 and further Endst. No.PGIMS/MB/23/10441-44 dated 26/9/2023.

Petitioner Satnam s/o Kirpal Singh, aged 50 yrs was examined on 04/10/2023 clinically and Radiologically. He had history of RSA in 2002 followed by epilepsy. He has difficulty in walking since year 2012 (approximately). On Neurological assessment he is found to have Progressive Spastic Quadriplegia involving all four limbs with severe Spastic Dysarthria and Dysphagia with inability to walk unassisted. He is suffering from probable diagnosis of Primary Lateral Sclerosis (PLS) which is a neurodegenerative disorder.

Opinion:

Petitioner Satnam s/o Kirpal Singh, aged 50 yrs as per his Ailment his condition is precarious and he is not in position to walk unassisted.

*Dr. Vivek Phogat
Assoc. Prof.
Deptt. Of Neurosurgery
(Member)*

*Dr. Surekha Dabla
Sr. Prof. & Head
Deptt. Of Neurology
(Chairman).”*

7. From the above reproduction, it is evident that the medical condition of the petitioner is poor and he is not in a position to walk unaided. Still further, petitioner was not arrested from the spot and recovery effected on his disclosure statement falls in the intermediate quantity. In the opinion of this Court, rigor of Section 37 of the NDPS Act will not apply. Furthermore, from perusal of the status report, it transpires that although the charge was framed on 13.10.2022, but the prosecution has merely examined 4 out of 17 witnesses. It is therefore apparent that the trial is not going to conclude in the near future. Considering these factors, this Court is of the view that interim order passed by this Court deserves to be made absolute.

8. Accordingly, interim order dated 17.03.2022 is confirmed. Petitioner shall furnish fresh personal/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. Petition is disposed of.

10. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
11. Pending applications, if any, shall stand disposed of.

06.12.2023
spn

(SUVIR SEHGAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No