

CRM-M-46306-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46306-2022

Date of decision: 11.05.2023

Gurmail Singh

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Gautam Dutt, Advocate,
for the petitioner.

Mr. Kunal Muthreja, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this second petition, the petitioner seeks regular bail in case bearing FIR No.55 dated 17.03.2021, registered under Sections 18 (c) and 25 NDPS Act, at Police Station Gobindgarh Mandi, District Fatehgarh.

Medical status report dated 11.05.2023 by way of affidavit of the Superintendent, New District Jail, Nabha, filed in the Court today, is taken on record. Copy of the same has been supplied to the counsel opposite.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that though the alleged recovery effected in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 17.03.2021; that out of total 18 prosecution witnesses, 04 witnesses have

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been examined and that there is no other case registered or pending against the petitioner, at least of a similar nature. In support of his contentions, learned counsel for the petitioner relies upon the order dated 25.01.2023 passed by the Hon'ble Apex Court in Special Leave to Appeal (Crl.) No.6690-2022 titled as 'Dheeraj Kumar Shukla vs. State of Uttar Pradesh'.

Furthermore, learned counsel for the petitioner refers to the report of Medical Officer, (M.D. Medicine), Civil Hospital, Nabha, to contend that the petitioner is suffering from various ailments. A relevant extract of the report of the doctor would read as under:

“Admission: February 07/02/2023 to 17/2/23

Patient was referred to CH Nabha with C/o Breathlessness and chest pain. He had Rhonchi and crepts over Bilateral lung fields was admitted under Chest and TB Deptt. IV Antibiotics and steroids were given. Total IgE was sent which was again positive for ABPA. Chest remained hyperreactive. So, HRCT was again done, which showed signs of Bronchitis with peripheral bronchitis of both lungs and signs of ABPA. He was managed with steroids and MDI (Tiova) was added. Rest supportive treatment where continued.

“Admission: 11/4/23-20/4/23

Patient presented to Civil hospital with history of breathlessness and wheezing. He was admitted under Chest and TB department. He had swelling all over his body and face. He gave a history of decreased urine output. He was started on renal safe IV antibiotics, Inj Deriphylline, Nebullization, PPI, Mucinac. Blood investigation showed deranged Renal function Test? (?Steroid Induced/?Diabetes Induced) with a Creatinine value of 3.2 mg/dl. Medicine opinion was sought. His steroid dose was tapered. He was hydrated with IV fluids. (His Creatinine value improved to 1.2 after hydration) His USG KUB was planned but could not be done. His 24 hr. urine sample test was sent for evaluation of Renal function, which was positive for protein leakage, thus confirming deterioration in renal function. He was started on reno-protective medications. His insulin doses were adjusted as per decreased dose of steroids. He was then discharged on 20/4/23.”

Learned counsel for the petitioner further contends that the petitioner

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never misused the concession of interim bail, which had been granted on the medical grounds.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner. He, however, submits that the recovery effected in the present case falls under the commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in the case of commercial quantity. He further submits that the material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

Though the recovery allegedly effected in the present case falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 17.03.2021. However, most of the prosecution witnesses are yet to be examined. In such circumstances, trial of the case would take a long time to conclude. Moreover as per the revised medical report (Annexure R-1) issued by the Medical Officer, New District Jail, Nabha, the petitioner is suffering from diabetes mellitus, hypertension, bronchial asthma with ABPA (allergic broncho pulmonary aspergillosis – a kind of fungal infection of lung. The medical report issued by the Medical Officer, Civil Hospital, Nabha also speaks volumes about the medical condition of the petitioner.

Furthermore, the petitioner had not misused the concession of interim bail granted to him on medical grounds. There is no other case pending or registered against the petitioner, at least of a similar nature. Therefore, no useful purpose would be served by keeping the petitioner in custody.

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The Hon'ble Apex Court in Dheeraj Kumar Shukla's case (supra) has held as under:-

3. It appears that some of the occupants of the 'Honda City' Car including Praveen Maurya @ Puneet Maurya have since been released on regular bail. It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with at this stage, more so when the trial is yet to commence though the charges have been framed.

4. For the reasons stated above but without expressing any views on the merits of the case, the petitioner is directed to be released on bail subject to his furnishing bail bonds to the satisfaction of the Trial Court.

5. It is made clear that in addition to the conditions that may be imposed by the Trial Court, the petitioner shall be required to appear before the Trial Court on every date of hearing. In case the petitioner is found to be involved in future in any other similar case, the respondent – State shall be at liberty to seek cancellation of bail granted to him by this Court.

6. The Special Leave Petition stands disposed in the above terms.....'.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

11.05.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No