

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.11192 of 2024
Date of decision: 12th March, 2024

Naresh Kumar @ Kaku

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ruhani Chadha, Advocate for the petitioner.
Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of interim regular bail under Section 439 Cr.P.C. in case FIR No.144 dated 17.10.2022 under Sections 21, 29, 61 of the NDPS Act registered at Police Station Sujanpur, District Pathankot. This is the second petition filed by the petitioner.

2. On the last date of hearing, learned counsel for the petitioner had prayed for interim bail to the petitioner on account of his medical condition; it had been submitted that the petitioner had been advised to undergo surgery. In the wake of the submissions made by the learned counsel for the petitioner, the State had been directed to verify the authenticity of the submissions made by the learned counsel with respect to the medical condition of the petitioner.

3. In compliance of the order dated 04.03.2024, medical status report by way of affidavit of Jiwan Thakur, Dy. Supdt. Sub Jail, Pathankot has been filed in the Court today, which is taken on record subject to all just exceptions and a copy thereof supplied to learned counsel opposite.

4. Learned counsel for the petitioner has reiterated that the health of the petitioner is not good which is evident from his medical status report, which has been filed along with the affidavit by the learned State counsel. It has been submitted that the petitioner has been advised to undergo surgery however, the surgery is being delayed on account of his other multiple health ailments. Learned counsel has thus, urged that in the circumstances, the petitioner would want to get himself medically treated from some private hospital. It has also been submitted that the petitioner does not pose any flight risk, and he be extended the concession of interim bail as his treatment would not be possible while in custody.

5. Learned State counsel has not disputed that the petitioner has been advised to undergo surgery for inguinal hernia, however he submits that since the petitioner is suffering from diabetes mellitus, no date for his surgery has been fixed yet as the petitioner would be able to undergo the surgery only after his diabetes is brought under control. Learned State counsel has thus submitted that in the circumstances, no purpose would be served by enlarging the petitioner on interim bail as on date he would not be able to undergo any surgery, as advised. It has

also been submitted that the petitioner can be provided with the diet as advised by his doctor for the control of his diabetes within the jail.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. The petitioner has made a prayer for being enlarged on interim bail on medical grounds, however, a perusal of the affidavit along with the medical status report of the petitioner annexed as Annexure R1/T, which has been placed on record by the learned State counsel, reveals that there is no opinion from any medical specialist suggesting any deterioration or decline in his health or recommendation for his imminent hospitalization, or even continuous monitoring of his health in a hospital. No doubt, the petitioner has been advised to undergo surgery for inguinal hernia, however, the same has been delayed on account of his uncontrolled diabetes. The medical report outlines that the petitioner would be able to undergo the surgery as advised by the doctors, only after his diabetes is brought under control, and thus, no date or timeline for undergoing the surgery has been given in the aforementioned medical report. Therefore, in the circumstances, after taking into consideration the medical records including the latest reports of the petitioner (Annexure R-1/T), the prayer for extension of interim bail on medical grounds to the petitioner deserves to be declined at this stage. The petition stands dismissed.

8. However, taking into consideration the medical history of the petitioner, this Court deems it appropriate to issue the following directions to the jail authorities:

- (i) That the jail authorities shall provide the petitioner with the prescribed diet and medical care as may be advised by his treating doctor;
- (ii) The jail authorities shall arrange for the regular follow up, check ups of the petitioner with his medical specialist;
- (iii) The jail authorities shall ensure that a comprehensive record of the medical parameters of the petitioner is maintained and all his medical needs including any medical emergency is addressed immediately.

9. It is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

March 12, 2024
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No