



In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-24031-2022 (O&M)
Date of Decision:-31.5.2024

Jitender Kumar @ Jeetu ... Petitioner
Versus
State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Zorawar Singh Chauhan, Advocate for the petitioner.
Ms. Sheenu Sura, DAG, Haryana.

FIR No.	Dated	Police Station	Section/s
280	5.9.2020	Civil Line Sirsa, District Sirsa	21(b) of Narcotic Drugs and Psychotropic Substances Act, 1985

GURVINDER SINGH GILL, J.

1. This order shall dispose of the above mentioned 3rd petition filed on behalf of petitioner seeking grant of regular bail in respect of the aforementioned FIR; and also the application i.e. CRM-19318-2024 filed on behalf of the petitioner seeking extension of *interim* bail as granted to him vide order dated 12.2.2024.
2. The allegations as levelled against the petitioner are that on 2.10.2020 when a team of Anti Narcotic Cell, Sirsa was present at Red Light Chowk, Sirsa then a secret information was received by ASI Mahender Singh, who was heading the said team to the effect that Jitender Kumar @ Jeetu indulges in supplying ‘heroin’ and that even on the given day, he was to proceed from his rented



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house in street No.5, DC Colony, Sirsa to Punjab for sale of 'heroin' in his Maruti Zen car bearing registration No.UP-32AK-5345. Pursuant to receipt of said information, an intimation in terms of Section 42 of Narcotic Drugs and Psychotropic Substances Act, 1985 was sent to Deputy Superintendent of Police, Head Quarter Sirsa through ESI Raj Kumar and the team headed by ASI Mahender Singh proceeded towards street No.5, DC Colony, Sirsa, where barricades were laid for checking. Shortly after some time, a car bearing registration No.UP-32-AK-5345 was seen, but its driver, upon noticing the police party, tried to turn back the car but failed to do so as other cars were parked in the street. The person driving the vehicle was apprehended and upon inquiry, disclosed his name as Jitender Kumar @ Jeetu. Upon being asked as to why he was trying to turn back the car, he could not furnish any satisfactory reply. It was suspected that he was carrying some contraband and accordingly a notice in terms of provisions of Section 50 of NDPS Act was served upon him intimating him that he had an option to be searched before a Magistrate or a Gazetted Officer. Jitender Kumar @ Jeetu expressed that he wanted his search as well as of his car to be effected in the presence of a Gazetted Officer. Accordingly Shri Kalu Ram, SDO, PH Division No.2 Sirsa was contacted telephonically and was requested to come at the spot. When Shri Kalu Ram, SDO reached at the spot Jitender Kumar @ Jeetu was produced before him and search of Jitender Kumar @ Jeetu as well as of car bearing registration No.UP-32-AK-5345 was effected. A green coloured polythene bag was recovered from the pants worn by Jitender Kumar @ Jeetu and upon checking, the same was found to contain 'heroin' in a transparent polythene bag, which upon weighment was found to weigh 350



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grams. Upon interrogation of Jitender Kumar @ Jeetu by ASI Mahender Singh, he disclosed that long time earlier Jangir Singh @ Jangira had sold the contraband to him.

3. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case and that there is no evidence worth credence to establish the allegations levelled against him pertaining to recovery of 350 grams of 'heroin'. It has further been submitted that the petitioner is suffering from various ailments and was having stone in his gall bladder and that although he had been operated upon, but he still needs some surgery. It has been submitted that the contention of the petitioner as regards his medical ailments had been accepted earlier and the petitioner had been granted *interim* bail and since his condition has now worsened, he deserves regular bail or in alternative, deserves extension of interim bail.
4. Opposing the petition, learned State counsel submitted that the petitioner has been misusing the procedure of law and had been making false representations regarding his ailments and that no doubt he had been granted interim bail at one stage, but this Court, upon noticing that the petitioner had been misusing the concession, had specifically directed him to surrender before the jail authorities vide order dated 13.5.2022 passed in CRM-M-16084-2021 (Annexure P-10). It has, however, been informed that the petitioner as on date has been behind bar since the last more than 1 year and 11 months and that the petitioner is involved in 5 other cases including 2 other cases under NDPS Act.
5. This Court has considered rival submissions addressed before this Court.



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6. A perusal of the FIR would indicate that it is a case of recovery of 'commercial' quantity of contraband i.e. 350 grams of 'heroin'. All the procedural safeguards in terms of provisions of Sections 42 and 50 of the NDPS Act had been duly adhered to at the time of effecting recovery. The search was effected in the presence of a Gazetted Officer, who was not from the Police Department but from the Civil Service i.e. an Sub Divisional Officer (SDO) and who can safely be said to be an independent responsible officer.
7. In the instant case, a perusal of earlier orders dated 14.10.2022, 17.10.2022, 22.12.2022 and 3.5.2023 would show that this Court had been issuing directions to ensure that the petitioner is provided requisite medical treatment in respect of his ailments, in case the requisite treatment is not available in the jail hospital. During the course of pendency of the instant petition, the petitioner moved an application seeking grant of *interim* bail i.e. CRM-21840-2023, wherein while issuing notice of the said application, the following directions were issued to the Jail Superintendent concerned on 17.5.2023:

“The Jail Superintendent, concerned shall make arrangement for seeking medical opinion from the treating doctor in PGI, Rohtak mainly as regards the following aspects:

- i) is the applicant-petitioner showing signs of improvement post the surgical intervention?
- ii) whether there are chances of spreading of infection?
- iii) what kind of precautions the applicant-petitioner is required to take?



- iv) what kind of post-surgical care is required to ensure that there is no relapse of the symptoms of disease in question?
- v) what kind of follow-up treatment and at what frequency the visits for follow-up would be required?

The treating doctor is requested to furnish the aforesaid opinion at the earliest.

The Jail Superintendent, concerned shall make necessary arrangements so as to ensure that the aforesaid medical report/opinion is furnished to this Court before the next date of hearing.

A copy of this order be furnished to learned State counsel today itself so as to enable her to convey the same to quarters concerned.

To be shown in urgent list.”

8. Pursuant to the aforesaid directions issued on 17.5.2023, the State filed its reply on the next date of hearing i.e. on 24.5.2023 accompanied by medical report with regard to the queries made by this Court on the previous date. The relevant extract from the said reply is reproduced hereunder:

“Surg-II/23/269

Dated 23.5.23

Reference letter No.PGIMS 5591 dt. 23/5/23. the medical board constituted met on 23/5/23 in surgical OPD. The pt. Was examined and the following answers are made:

Point No.1: Yes, patient is showing signs of improvement post the surgical intervention.

Point No.2: At present, there are no chances of spreading of infection.

Point No.3: Patient needs to actively control his blood sugar and do major exercises and physiotherapy.

Point No.4: Maintaining proper blood sugar levels and good local hygiene of left axilla is required to ensure that there is no relapse.



Point No.5: Patient requires regular follow up by a specialist plastic surgery doctor and the frequency of follow up will be determined by the same.”

9. This Court, while considering the aforesaid reply, had ordered for release of the petitioner on *interim* bail for 3 months upto 30.8.2023 vide order dated 24.5.2023. The petitioner was directed to surrender before the jail authorities on the morning of 31.8.2023.
10. When the matter was taken up on 31.8.2023, the petitioner had placed on record Out Patient Card issued by Pt. B.D. Sharma, PGIMS, Rohtak and the State was directed to verify the assertions made in the application as regards the medical condition particularly as regards the blockage of arteries in his heart. The *interim* bail as had been granted was further extended and the matter was adjourned to 19.9.2023. Thereafter, the matter was again adjourned on 3 occasions. Subsequently, when the matter was taken up on 19.1.2024, learned counsel representing the petitioner submitted that he does not have any instructions from his client.
11. Since learned State counsel informed that the petitioner had not surrendered before the jail authorities, this Court accordingly withdrew the interim directions pertaining to grant of *interim* bail vide order dated 19.1.2024 and the petitioner was directed to surrender before the jail authorities within a period of 1 week.
12. However, despite specific directions issued on 19.1.2024, the petitioner did not surrender within one week and subsequently an application i.e. CRM-3640-2024 for extension of time for surrendering before the jail authorities was filed in which notice was issued to the respondent – State of Haryana on



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31.1.2024. Since it had been represented that the petitioner was hospitalized and was still admitted in Shivam Hospital, Sirsa and on account of which he had not surrendered, the State was directed to conduct requisite inquiries.

13. On the next date of hearing i.e. on 8.2.2024, the matter was adjourned to 2.5.2024 upon request made on behalf of learned counsel for the petitioner. The petitioner had, however, still not surrendered.
14. When the matter was taken up on 12.2.2024, learned State counsel filed a status report by way of affidavit of DSP Jagat Singh, DSP (HQ), Sirsa, wherein it was deposed that the petitioner had remained admitted in Shivam Hospital, Sirsa w.e.f. 18.1.2024 to 31.1.2024 and had been referred to cardiologist for opinion for stunting.
15. Having regard to the said position, the earlier directions issued on 19.1.2024 pertaining to withdrawal of the interim directions were recalled and the *interim* bail already granted to the petitioner was extended upto 29.2.2024 and it was directed that the petitioner shall surrender back before the jail authorities on 1.3.2024.
16. The petitioner again did not surrender despite specific directions had been issued for surrender on 1.3.2024. Later on another application i.e. CRM-19318-2024 was filed seeking extension of *interim* bail on the ground that the medical condition of the petitioner was precarious and he had been taking treatment from various hospitals and was presently admitted in Maharaja Agrasen Medical College and Hospital, Agroha and was not in a position to surrender before the jail authorities being bed-ridden. Notice of the said application was issued to the respondent – State of Haryana and the State was



directed to verify the said assertions. The operative part of order dated 2.5.2024 is reproduced hereinunder:

“Learned counsel submits that the medical condition of the petitioner has been precarious and the petitioner has been taking treatment from various hospitals and is presently admitted in Maharaja Agrasen Medical College and Hospital, Agroha and is not in a position to surrender before the jail authorities and is completely bed-ridden.

Notice of the application be issued for 08.05.2024.

At this stage, Mr. Munish Sharma, DAG, Haryana, who is present in the Court accepts notice.

State to verify the assertions made in the application as regards the precarious medical condition of the petitioner. It be verified and reported as to whether the petitioner is in a reasonably fit condition to be confined to jail or as to whether he requires such treatment for which his admission is necessary. Since, the petitioner is presently stated to be in Maharaja Agrasen Medical College and Hospital, Agroha, the SHO concerned shall do the needful for making inquiries from the said hospital and to seek opinion of the Doctor concerned.”

17. Pursuant to directions issued by this Court on 2.5.2024, the State had filed fresh status report by way of affidavit of Shri Subhash Chand, HPS, Deputy Superintendent of Police (City), Sirsa, wherein it was deposed that the petitioner had been diagnosed to be having contracted gall bladder with no significant abnormality and no surgical intervention was required, but on account of ECG changes, he was referred to Department of Cardiology, MAMC, Agroha. The petitioner, however, could not be contacted by the police officials at MAMC, Agroha. Learned counsel, however, represented that the petitioner was again admitted in Shivam Hospital, Agroha. Accordingly, fresh directions were issued to the police to conduct



verification. The relevant extract from order dated 8.5.2024 is reproduced hereinunder:

“.....As per the said opinion/reports, the petitioner was diagnosed to be having contracted gall bladder with no significant abnormality and that no surgical intervention was required. However, on account of some ECG changes, he was referred to Department of Cardiology MAMC, Agroha, wherein PTCA +_ STENT TO LCX was done on 4.5.2024 and he was supposed to be discharged on 5.5.2024. However, since the petitioner was not in MAMC, Agroha, he could not be contacted by the police officials.

Learned counsel for the petitioner, upon instructions from Raghubir Singh S/o Balbir Singh resident of Budhabhana, District Sirsa, who is friend and neighbour of the petitioner, has informed that the petitioner is presently admitted in Shivam Hospital, Sirsa.

The Superintendent of Police, Sirsa is directed to depute some responsible police officer, who shall visit the aforesaid hospital so as to take the petitioner in custody. The said police officer shall, however, ensure that the petitioner is got medically examined to assess his medical condition before taking him into physical custody. In case it is found that the petitioner is having serious ailments requiring medical attention, then it be ensured that he is provided requisite medical treatment either from the hospital, where he is admitted, or from MAMC, Agroha from where he was taking treatment earlier or from any other reputed hospital. In such circumstances, the petitioner shall be treated to be in deemed custody and shall be confined to jail only after requisite emergent treatment is provided to him and is complete.”

18. Pursuant to order dated 8.5.2024, learned State counsel has filed a fresh status report by way of affidavit of Shri Vikrant Bhushan, IPS, Superintendent of Police, Sirsa, District Sirsa, which is taken on record. The relevant extracts from the said reply are reproduced hereinunder:



“3. That Dr. Nishu of Shivam Hospital, Sirsa made the report dated 9.5.2024, which reads as follows:

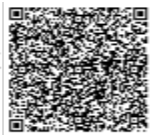
“Jitender s/o Ram Avtar had not admitted in our Shivam Hospital from dated 13.4.24 to till dated 09.05.24. As we are not accepting any admission due to shifting of building of our hospital.

5. That thereafter to ascertain the whereabouts of the petitioners, the police officer visited the residential house of petitioner at Jawahar Nagar, Mandi Adampur, District Hisar on 10.5.2024, but none was available at the house of petitioner and the house was found locked.
6. That on 11.5.2024, the police officer visited Maharaja Agrasen Medical College & Hospital, Agroha (Hisar) to know as to whether the petitioner was admitted there or not. The Medical Officer, Maharaja Agrasen Medical College & Hospital, Agroha (Hisar) supplied the Follow up and Discharge Card dated 11.5.2024 bearing OPD No.428170 pertaining to the petitioner and stated that the petitioner Jitender had visited the hospital and at his request he was admitted, but he did not disclose about any medico-legal issue/summary at the time of admission and thus, he was discharged on 11.5.2024.
7. That on 11.5.2024, the petitioner Jitender was found standing near the gate of Maharaja Agrasen Medical College & Hospital, Agroha (Hisar) and he was taken into police custody by the police officer and he was brought at Civil Hospital, Sirsa, where he was got medically examined. The Medical Officer, Civil Hospital, Sirsa after medical examination of the petitioner made the report that, "Pt. has no present complaints. **Fit for admission in Jail**". Copy of Medical Report dated 11.5.2024, given by Medical Officer, Civil Hospital, Sirsa.”

(emphasis supplied)



19. A perusal of the aforesaid status report dated 24.5.2024 shows that the petitioner is trying to mislead the Court as regards his admission in hospital. While it may be correct that the petitioner is having some medical ailment, but by the manner in which the petitioner had been misusing the concession of *interim* bail and has not been surrendering on time and moving applications for extension of bail by misrepresenting his status of admission in hospitals, which has been clearly negated by the verification conducted by police as is evident from the latest status report reproduced above, the petitioner has disentitled himself for grant of concession of bail. In fact, the Medical Officer, Civil Hospital, Sirsa has now clearly opined that the petitioner is fit for admission in jail.
20. Having regard to the aforesaid conduct of the petitioner and while also noticing that it is a case of recovery of 'commercial' quantity of contraband and the petitioner has been involved in 5 other cases including 2 cases under NDPS Act, it is certainly not safe to release the petitioner on bail as there is every likelihood that he would indulge in similar offences again. Finding no merit in the petition, the same is hereby dismissed.
21. Needless to mention, the State shall provide medical treatment to petitioner, in case the same is required.
22. It is further directed that as and when any subsequent petition for grant of bail/interim bail is filed in the instant case arising out of FIR No.280, dated 5.9.2020 registered at Police Station Civil Line Sirsa, District Sirsa, under Section 21(b) of NDPS Act, a copy of this order shall be annexed with such petition.



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23. All the pending applications including application for extension of interim bail i.e. CRM-19318-2024 shall stand dismissed.

31.5.2024

Pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No