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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

213

CRM-M-49453-2023  
Date of decision: 28.08.2024

NITIN GUPTA

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Ajay Kadyan, Advocate  
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

**KULDEEP TIWARI. J.(Oral)**

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.96 dated 19.02.2023, under Sections 22(c) and 29 of the NDPS Act, 1985, registered at Police Station Old Industrial Area, District Panipat.
2. In the instant case, the petitioner was apprehended by the investigating agency, carrying 40 buprenorphine injection IP Bupine 2 ml & Rs.2500/-, and 1000 injections of buprenorphine & 200 injections avil 10 ml were recovered from the co-accused, which falls within the ambit of commercial quantity. The petitioner was arrested on the spot on 19.02.2023. During investigation 04 more accused persons were arrayed in the instant FIR.
3. The learned counsel for the petitioner, in his asking for the hereinabove extracted relief, has made the following submissions:-

***(i) Petitioner is an HIV positive patient, and his medical condition is deteriorating with every passing day;***



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***(ii) The petitioner has suffered incarceration of more than 01 year and 06 months, as on today;***

***(iii) The final report under Section 173 Cr.P.C., had already been filed on 05.08.2023, and the charges were framed on 20.01.2024;***

***(vi) Out of the total 16 prosecution witnesses cited in the final report, none has been examined till date.***

4. This Court vide order dated 16.07.2024, directed the learned State counsel to file reply, by way of an affidavit of Superintendent of Jail concerned, regarding the medical condition of the petitioner. The medical status report dated 30.07.2024, of Superintendent of District Jail, Panipat had been filed, and as per the medical report of the present petitioner, he is an HIV positive patient. The relevant extract of the said report, reads as under:-

*“Patient was admitted at District Jail, Panipat on dated 19.02.2023. At the time of medical examination by medical officer he gave alleged history of Intravenous opioid substance abuser (Injections of Smack) since 5 years. Later on during HIV rapid test patient examination showed HIV+ve report at the time of Medical Camp in District Jail, Panipat, due which patient was sent to Civil Hospital on dated 03.03.2023 to ART Centre for further treatment and investigation, there he got the treatment and medication accordingly. After that patient further referred to G.H. Panipat for follow-up and investigation on dated 31.03.2023, 02.05.2023, 10.05.2023, 18.05.2023, 24.05.2023 and on 20.09.2023 and on 30.07.2024.”*

5. Per contra, the learned State counsel, who is in receipt of advance notice, has placed on record the custody certificate *qua* the petitioner, as issued by



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the Deputy Superintendent, District Prison (Panipat), Haryana. The same is taken on record. A perusal of the custody certificate reveals that the petitioner has suffered incarceration of 01 year, 06 months and 09 days, as on today. A perusal of the custody certificate further reveals that the petitioner is not involved in any other criminal case. Learned State counsel on instructions, imparted to him from the official respondent, submits that after conclusion of the investigation, the final report under Section 173 Cr.P.C., had already been filed on 05.08.2023, and the charges were framed on 20.01.2024. Learned State counsel further submits that out of the total 16 prosecution witnesses cited in the final report, none has been examined till date.

6. This Court has examined the instant petition and is of the considered opinion that the instant petition is amenable for being allowed.

7. The reason for forming the above inference emanates from the factum that:- (i) The petitioner is an HIV positive patient, and further keeping the petitioner in jail would be detrimental to his physical health; (ii) The petitioner has suffered incarceration of 01 year, 06 months and 09 days, as on today; (iii) Out of the total 16 prosecution witnesses cited in the final report, none has been examined till date; (iv) The final report under Section 173 Cr.P.C., had already been filed on 05.08.2023, and the charges were framed on 20.01.2024; (v) No fruitful purpose would be served by keeping the petitioner behind the bars; (vi) Trial is not likely to conclude anytime soon.

8. Considering the hereinabove made discussion, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the



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present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

9. However, anything observed here-in-above shall have no effect on the merits of the trial, and is only meant for deciding the present petition.

10. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court.

28.08.2024  
amandeep

(KULDEEP TIWARI)  
JUDGE

|                            |   |        |
|----------------------------|---|--------|
| Whether speaking/reasoned. | : | Yes/No |
| Whether Reportable.        | : | Yes/No |