

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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2024:PHHC:006648

CRM-M-59175-2023

Date of decision: January 18th, 2024

Varinderpal Singh Dhoot

.....Petitioner

Versus

Assistant Director, Directorate of Enforcement, Jalandhar

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.S. Cheema, Senior Advocate
with Mr. A.S. Cheema, Advocate
for the petitioner.

Mr. Satya Pal Jain, Additional Solicitor General of India
and Mr. Lokesh Narang, Senior Panel Counsel
for the respondent.

MANJARI NEHRU KAUL, J. (ORAL)

This is a second petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case ECIR/JLZO/07Unit 4(1)/120/1024 under Section 3 read with Section 4 of Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'PMLA') registered by Enforcement Directorate, Jalandhar.

2. Learned senior counsel for the petitioner submits that he continues to suffer from multiple medical ailments including kidney disease for which even during the preceding few months, after he was extended the concession of interim bail by this Court on 24.08.2023, he had been frequently visiting a Nephrologist as well as a Gastroenterologist for getting himself treated. Learned senior counsel has further submitted that even as per the latest report of PGI, Chandigarh, (Annexure R-2), his medical condition is far from

satisfactory and hence, the concession of interim bail, which had been granted vide order dated 24.08.2023, be made absolute or in the alternative, be extended, as it would not be conducive for him to be lodged in jail for he would not get proper medical treatment and in case of any medical emergency, the doctors in the jail hospital may not be able to manage his medical condition.

3. Learned senior counsel has also further submitted that even otherwise, the petitioner satisfies the test of the proviso to Section 45 (1) of the PMLA, wherein a sick or infirm person can be considered for being released on bail and thus, the case of the petitioner is squarely covered by the aforesaid proviso. Learned senior counsel while drawing the attention of this Court to *Ramadhar Ram Versus State of Bihar & Ors (Criminal Miscellaneous No.24534 of 2022, High Court of Judicature at Patna)*, *Kudratdeep Singh @ Lovie Versus Enforcement of Directorate (CRM-M No.31762 of 2022, P&HHC)*, *Anil Vasantrao Deshmukh Versus State of Maharashtra*, *Paranjil Batra Versus Directorate of Enforcement, (CRM-M-23705-2022 P&HHC)*, *Lalit Goyal Versus ED (CRM-M-7039-2022 P&HHC)* has submitted that in a number of cases, the Courts have shown indulgence in cases of seriously ill persons by granting the concession of bail in cases under the PMLA.

4. Learned counsel for the Enforcement Directorate-respondent has vehemently opposed the prayer made for extending the concession of bail or even extending the interim bail. It has been asserted by the learned counsel that the petitioner is the prime accused in the instant case involving large scale corruption and fraud etc. running into crores of rupees. The petitioner, being a revenue officer

(Naib Tehsildar) at the time, played a key role in playing a huge fraud on society at large and the State Exchequer, wherein many beneficiaries were allotted *shamlat* land in excess to their share while others were deprived. It was the petitioner, who had approved the aforesaid unlawful allotments and in lieu thereof, had received a huge amount in cash (bribe) which was then deposited in his own bank account and account of his relatives. Further, a perusal of the latest medical reports of the petitioner, which have been placed on record, clearly reveal that the condition of the petitioner is stable and there has been no deterioration in his health. It has been further submitted that when the interim bail was extended to him on 24.08.2023, the petitioner was freshly recovering from his second kidney transplant and it was in that background and keeping in view the medical evaluation done by the PGIMER, Chandigarh, he had been granted the concession of interim bail. He submits that the jail authorities are any way bound to monitor the medical condition of its inmates. In case, the petitioner requires any urgent medical assistance, he would be promptly provided the same by the authorities including taking him for regular follow up check-ups.

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

6. Granting bail on medical grounds in cases like the present one is a discretion, which has to be exercised judiciously, taking into account the specific circumstances of each individual. In the instant case, the petitioner was indeed extended the concession of interim bail for three months, which was however, based on a medical evaluation carried out by PGIMER, Chandigarh, at that time. However, as per the latest medical evaluation of the petitioner done by the PGIMER,

Chandigarh, which has been annexed as Annexure R-2, the health of the petitioner, after being extended the concession of interim bail on 24.08.2023, is stable. The report does not indicate any opinion from any medical specialist suggesting any deterioration or decline in his health or even any recommendation by the treating doctors for his hospitalization, let alone continuous monitoring of his health in a hospital. The report outlines that the petitioner is presently undergoing treatment through medication and only requires regular follow ups along with certain dietary restrictions. Therefore, after taking into consideration the medical records including the latest medical report (Annexure R-2), which has been placed on record by the counsel for the respondent, coupled with the fact that the condition of the petitioner is stable, the prayer for extension of interim bail on medical grounds to the petitioner deserves to be declined at this stage. Furthermore, in view of serious allegations against the petitioner along with the latest medical report of the petitioner, the proviso to Section 45 of the PMLA would not come to his rescue so as to entitle him to the concession of regular bail. In the circumstances, this Court does not deem it fit to grant the concession of regular bail to the petitioner at this stage.

7. However, at the same time, it is crucial to acknowledge that Article 21 of the Constitution recognizes health as a fundamental right and it is the responsibility of the State to ensure adequate medical attention for all incarcerated persons, irrespective of their legal status. The well being of an accused, whether an undertrial or a convict, is undeniably significant, entitling him to proper medical care even while in custody.

8. Taking into consideration the medical history of the petitioner including a prior renal procedure, this Court deems it appropriate to issue the following directions to the jail authorities:

- (i) That the jail authorities shall ensure that the petitioner is accommodated in the jail hospital with proper hygiene maintained by the attending doctor or in an isolated room within the jail, where routine and regular monitoring of his medical condition will be carried by the jail doctor.
- (ii) That the jail authorities shall provide the petitioner with the prescribed diet and medical care as advised by his treating doctor.
- (iii) That the jail authorities shall arrange for regular follow up check-ups of the petitioner with his medical specialist.
- (iv) That the jail authorities shall ensure that the nursing requirements of the petitioner are made, along with maintaining hygiene and addressing all his medical needs, while keeping a comprehensive record of his medical parameters.
- (v) That in case of any medical emergency, the jail authorities shall ensure immediate and necessary medical treatment.

9. The instant petition stands dismissed with direction to the petitioner to appear and surrender before the trial Court on or before 22.01.2024 by 4 O'clock.

January 18th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No