

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

240

CRM-M-39199-2023 (O&M)

Date of decision: 11.09.2023

Bholi

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. B.S. Kathuria, Advocate for the petitioner

Mr. H.S. Sullar, Sr. DAG Punjab

AMAN CHAUDHARY, J.

1. The 2nd petition has been filed under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for grant of interim regular bail on medical grounds to the petitioner in case FIR No.197 dated 04.08.2015, registered under Sections 22 of NDPS Act, 1985 at Police Station Tanda, District Hoshiarpur.

2. Learned counsel contends that the petitioner, who is 60 year old, is in custody for 1 year and 9 months. He alleges her false implication in the case. She was granted concession of default bail under Section 167(2) Cr.P.C. vide order dated 09.02.2016, whereafter she had duly surrendered and has since been in custody. There is no allegation against her of having misuse the concession of bail. She is suffering from Type-2 DM with HITN, with Renal Calculi. There are 3

more cases against the petitioner under the NDPS Act, in one of which, she was convicted and sentenced to already undergone, wherein non-commercial quantity of contraband was recovered and in the other two, she is on bail.

3. The custody certificate dated 08.09.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 1 year, 8 months and 24 days.

4. Affidavit of Kulwant Singh, PPS, Deputy Superintendent of Police, Sub-Division, Tanda has been filed by learned State counsel. The same is taken on record. He opposes the bail on the ground that the petitioner was apprehended at the spot and the commercial quantity of contraband has been recovered from her. He is however unable to controvert the submissions with regard to stage of the present case and the other cases and refers to the medical report, Annexure R-1 which reads thus:

“With due respect, it submitted that the above said Patient is known case of Type-2 DM with HITN, with Renal Calculi. Patient was sent to Civil Hospital Hoshiarpur on 15.06.2023 for treatment at Civil Hospital Hoshiarpur.

Patient was advised Usg of abdomen by Surgeon of Civil Hospital Hoshiarpur where the reports show 9.6 M.M. of Calculus in lower pole of Right Kidney and cortical cyst 1.5 X 1.5 cm in upper pole for which patient was referred to PGIMER Chandigarh/GMC Amritsar to urologist by Surgeon of Civil Hospital Hoshiarpur.

She was referred to Civil Hospital Hoshiarpur on 30.08.2023 with complaint of Pain Abdomen with leg weakness & fever X 1 day. Patient is also known case of DM2 & HTN for which patient is taking irregular medicines as written by Doctor of Civil Hospital Hoshiarpur. She was advised blood test which will be done and following medicines were prescribed:-

1. Tab PCM 500 mg BD
2. Tab Rabiprazol OD
3. Tab Telmi 40 mg + Amlodipine 5 mg OD
4. Tab Metformin 500 mg + Glimipride 2 mg BD X 5 days

Patient vitals are stable now and oriented to time, place & person.”

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 1 year, 8 months and 24 days; on bail in other cases; her medical condition; charges were framed on 25.07.2018, however, out of 12 prosecution witnesses, only 5 have yet been examined; the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of interim bail deserves to be allowed.

7. The petitioner is ordered to be released on interim regular bail for a period of three months from today, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to her not being required in any other case. On completion of the said period, she shall surrender before the competent authority. Duty Magistrate shall also send a compliance report in this regard.

8. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, she is an accused, or for commission of which she is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer

or tamper with the evidence in any manner.

- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish her address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

9. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

10. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

September 11, 2023

M.Kamra

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