

(2022) 05 SHI CK 0051

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 473 Of 2022

Taranjeet Singh Alias Badal

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 17-05-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 201, 302, 364

Citation : (2022) 05 SHI CK 0051

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Seema K. Guleria, Sumesh Raj, Dinesh Thakur, Sanjeev Sood, Amit Kumar Dhumal, J.S. Bagga

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of this petition filed under Section 439 of the Code of Criminal Procedure, the petitioner has prayed for grant of bail in FIR No. 78/2010, dated 15.06.2010, registered under Sections 364, 302 & 201 read with Section 34 of the Indian Penal Code at Police Station Nalagarh, District Solan, H.P.

2. When this case was listed before the Court on 10.03.2022, the following order was passed:-

"By way of this petition filed under Section 439 of the Criminal Procedure Code, the petitioner has prayed for grant of bail in F.I.R. No. 78 of 2010, dated 15.06.2010, registered against him at Police Station Nalagarh, District Solan, H.P., under Sectons 364, 302, 201 read with Section 34 of the Indian Penal Code.

Status report filed, which is ordered to be taken on record.

The reasons given in the application as to why the petitioner is praying for grant of bail is that when the petitioner was lodged in Jail, he was diagnosed with

bilateral kidney stone. He underwent surgery in the last week of August, 2021 in P.G.I. Chandigarh and subsequently, the kidneys of the petitioner have been damaged as care required during the surgery and post surgery could not be given to him.

Learned Additional Advocate General has taken strong exception to the contents of the petition on which bail is being sought by the petitioner, on the ground that in compliance to the directions which stood passed by this Court in an earlier bail petition filed by the present petitioner, i.e., Cr. M.P. No. 1649 of 2021, full medical assistance has been provided to the petitioner which earlier also was being provided to him and this application has been filed on false grounds just to gain sympathy of the Court. He further submits that before any further direction is passed by the Court in the present petition, just to test the veracity of the averments made in the petition, this Court may pass an order for medical examination of the petitioner by the Medical Board, report whereof would demonstrate as to whether what is being alleged in the petition is correct or not.

Having heard learned Additional Advocate General, this Court concurs with the submissions so made by him. Accordingly, CMO Sirmaur at Nahan, H.P. is directed to constitute a Medical Board and examine the petitioner medically and submit a report to this Court to the effect as to whether post operation the kidneys of the petitioner have been damaged or not.

Let needful be done by the next date of hearing. List on 11.04.2022, as prayed for."

This was followed by the following order being passed on 11.04.2022:-

"Learned Additional Advocate General submits that due to some communication gap, medical examination of the petitioner could not be conducted in terms of order passed by this Court on 10th of March, 2022. He submits that needful shall be done within a period of 10 days.

List on 02.05.2022, on which date medical report in terms of order dated 10th March, 2022, be produced before the Court."

Thereafter, when the matter was listed in the Court on 02.05.2022, the following order was passed:-

"Learned Additional Advocate General has handed over a copy of instructions so imparted to him by Deputy Superintendent of Jail, Model Central Jail, Nahan, alongwith medical examination report of the petitioner appended therewith. He is directed to hand over a copy thereof to learned counsel for the petitioner, who has prayed that the case be taken up after 10 days to enable the petitioner to place on record latest from PGIMER, Chandigarh about his health condition.

List for consideration on 17.05.2022."

3. Today, learned counsel for the petitioner submits that she is unable to place on record the report from PGIMER, Chandigarh to substantiate that health condition

of the petitioner is such that he needs to be released on bail on medical grounds. In the absence of learned counsel for the petitioner being able to demonstrate on the basis of cogent medical evidence that the release of the petitioner was required in terms of the prayer which has been made in the petition, this petition is dismissed.