

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: July 14, 2011
Judgment delivered on: July 19, 2011

+ **CRL.M.B. 1068/2011 IN BAIL APPLICATION NO. 883/2011**

KARIM MORANI

....PETITIONER

Through: Mr. Siddharth Luthra, Sr. Advocate with
Mr. R.N.Karan Jawala, Mr. Sandeep
Kapur, Mr. Shivek Trehan, Mr. Udit
Mendiratta & Mr. Arundhati Katju,
Advocates

Versus

CENTRAL BUREAU OF INVESTIGATION RESPONDENT

Through: Ms. Sonia Mathur, Advocate on behalf of
Mr.U.U.Lalit, Sr. Advocate/Special Public
Prosecutor.

CORAM:

HON'BLE MR. JUSTICE AJIT BHARIHOKE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in Digest ?

AJIT BHARIHOKE, J.

1. Karim Morani, the petitioner herein is seeking interim bail in case RC No. DAI-2009-A-0045 on medical grounds.

2. At the outset, it may be noted that the petitioner filed a regular

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bail application being Bail Application No. 883/2011 wherein he also

CRL.M.B. 1068/11 in Bail Appln. 883/11

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filed an application for interim bail being CrI.Misc. Bail No. 1068/2011 with the prayer that during the pendency of his regular bail application, taking into account the medical condition of the petitioner, he may be released on interim bail.

3. On 27th June, 2011, learned counsel for the petitioner withdrew the regular bail application. So far as the application for grant of interim bail is concerned, he stated that the petitioner was discharged after certain tests by G.B.Pant Hospital on 24th June, 2011 and certain other test reports were still awaited. Thus, he sought adjournment for argument on application for interim bail.

4. When it was pointed out as to how the application for interim bail survives when the main bail application has been withdrawn, learned senior counsel appearing for the petitioner submitted that in his absence, the assisting counsel withdrew the main bail application and he requested that the application for interim bail be treated as an application on medical ground only. The request appears to be justified. Instead of asking the petitioner to file fresh application for interim bail on medical ground, the instant application is treated as an application on behalf of the petitioner seeking his release on interim bail because of his medical condition.

5. Learned counsel for the petitioner has taken me through the medical history of the petitioner since 1991 till 2007. He has also

referred to photocopies of the Discharge Summary of the petitioner from Lilavati Hospital & Research Centre, Mumbai dated 16th May, 2011, a Review Article on "Coronary Artery Ectasia: From Diagnosis to Treatment" by Sophie Mavrogeni and an article titled "Coronary artery ectasias: imaging, functional assessment and clinical implications" published in Oxford Journal's Medicine European Heart Journal, Volume 27, Issue 9, Pages 1026 to 1031. On the basis of aforesaid record, learned counsel for the petitioner has submitted that the petitioner has a long history of coronary artery ectasias. He is also suffering from Pituitary Adenoma and Neurocardiogenic Syncope besides other ailments. It is submitted that in view of the aforesaid medical condition, the petitioner has been advised a regulated life and to avoid stress. Learned counsel submitted that detention in jail pending trial is a cause of great stress for the petitioner and it can aggravate his medical condition. It is argued that medical facilities in jail are not adequate to deal with any emergency. Thus, it is urged that petitioner be released on interim bail, at least for a period of 6 to 8 weeks. In order to stress his point, learned counsel for the petitioner has drawn my attention to the report of G.B.Pant Hospital dated 24th June, 2011 regarding current medical status of the petitioner wherein it is noted by the Board of Doctors that when Head-up-Tilt Test (HUTT) was conducted on the petitioner, he became unconscious with unrecordable blood

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pressure and slowing of pulse to 47 beats/min., suggesting neurocardiogenic Syncope as the cause, predominantly vasodepressor type. Thus, it is strongly urged on behalf of the petitioner that the petitioner may be released on interim bail in order to get his medical tests done by the doctors who were treating him before his arrest and whatever condition the court feels justified, may be imposed upon him.

6. Learned Ms. Sonia Mathur, Advocate appearing for the respondent/CBI has strongly opposed the bail application. She submits that perusal of the medical record submitted by the petitioner would show that it relates to the period with effect from January, 1991 till March, 2007. She submits that after the bypass surgery of the petitioner in 2007, there is no record of treatment of the petitioner for the past four years. The medical certificates submitted by the petitioner after the bypass surgery relate to the year 2011, that too, within close proximity of the date of filing of charge sheet. Learned Prosecutor has drawn my attention to the copy of the medical certificate of petitioner Karim Morani issued by Dr. Sudhansu Bhattacharya dated 26.04.2011 wherein it is recorded that Karim Morani had visited him in March, 2007 with deffuse blocks of most of his coronary arteries. He received bypass grafts and required reboring of his two major vessels-LAD and PD. The doctor has certified that the patient had been generally fit after

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surgery and he had been advised a line of treatment. Learned Prosecutor has also drawn my attention to photocopies of the reports of Department of Cardiology and the Department of Neurosurgery, Grant Medical College & Sir J.J. Group of Hospitals, Byculla, Mumbai respectively, both dated 19th May, 2011. In both these reports, after examination of the patient Karim Morani, the doctors concerned have observed that the patient does not require any active cardiac or neurosurgical management. Both the Cardiology Department and the Department of Neurosurgery had advised Karim Morani to continue with his treatment and follow up his treatment as an out-patient. It is further submitted that the petitioner was medically examined by the Board of Doctors at G.B.Pant Hospital on 24th June, 2011 wherein the Board of Doctors reported about his medical history and concluded that the patient has been discharged after counselling him about his condition with advice for further follow up in the Cardiology and Neurology Departments. Learned Prosecutor has also drawn my attention to the latest medical report dated 11.07.2011 of the petitioner received from the Medical Board of G.B.Pant Hospital wherein also, it is noted that Karim Morani has been advised to continue treatment and precaution as previously recommended to him at the time of his discharge on 24th June, 2011 along with the Tablet Alprax-0.25 m.g. twice a day. The Board has opined that the patient has CAD, P/O

CABG, normal left ventricular function with pituitary micro-adenoma, likely neurocardiogenic Syncope along with anxiety. Learned Prosecutor has thus concluded that the petitioner is maintaining normal life after his by-pass surgery and his medical condition is stable, as such, there is no reason for his release on interim bail.

7. I have considered the rival contentions and perused the record. "Interim bail", as the terminology suggests, is an interim arrangement for release of the accused to meet certain exigencies. It can never be a substitute for regular bail. The petitioner has already withdrawn his application for regular bail. Therefore, it is to be seen whether the petitioner, on the basis of medical record produced by him, has been able to make out a case for his release on interim bail. The medical record placed on record by the petitioner starts from the year 1991.

8. From the aforesaid record, it transpires that the petitioner underwent by-pass surgery around the year 2007. Thereafter, for a continuous period of 4 years, there is no medical record which prima facie indicates that during the period from 2007 to 2011, the petitioner did not suffer any medical complication. Coming to the medical record of the petitioner for the year 2011, it would be seen that the record submitted by the petitioner starts from 25th April, 2011. It is pertinent to note that supplementary charge sheet

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showing the petitioner as one of the accused was also filed in the court on 25th April, 2011. From the medical record of year 2011 submitted by the petitioner, it cannot be said that petitioner is suffering from such a medical condition which cannot be managed by proper treatment regime in jail hospital. As per the report of Dr.Yash Lokhandwala, D.M.(Cardiology) dated 13th May, 2011, following line of treatment was suggested to the petitioner:

"Suggest

- *Neurosurgery opinion.*
- *No anti-hypertensives.*
- *Stop Aquazide.*
- *Increase the salt and water intake.*
- *Dietary and postural advice.*
- *Strongly avoid any stressful situation.*
- *To see the Holter report.*
- *LP (a)and Homocysteine"*

The record also suggests that the petitioner got admitted in Lilavati Hospital & Research Centre for treatment on 11th May, 2011 with the complaint of episode of Syncope two days earlier and breathlessness. He was diagnosed for Neurocardiogenic Syncope, Pituitary Adenoma-cystic IHD, Post CABG Status, HTN, Nasal Polynosis, Cervical lumbar spondylosis etc. and as per his Discharge Summary, his stay in the hospital was uneventful. He was advised medication and physiotherapy. Besides that, the petitioner has also placed on record a certificate dated 20th June, 2011, purported to have been issued by Dr. Jolly Bansal which is based upon the

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medical record provided to him and not on the basis of physical examination of the patient. This certificate does not even indicate as to what medical record was shown to him. Therefore, much reliance cannot be placed upon it.

9. The petitioner was sent to judicial custody on dismissal of his bail application by the Trial Court. During his stay in jail, the petitioner complained of medical problems. He was accordingly sent to Deen Dayal Upadhyaya Hospital and G.B.Pant Hospital for medical examination and treatment. As per the report of Board of Doctors of G.B. Pant Hospital namely Dr. Vijay Trehan, Professor & HOD Cardiology, Department of Cardiology, Dr. Sanjeev Kathuria, Assistant Professor, Department of Cardiology and Dr. Vivek Chaturvedi, Assistant Professor, Department of Cardiology, the petitioner was managed in the hospital conservatively with continuation of his previous medication and he was discharged after counselling him about his condition with advice for further follow up in Cardiology and Neurosurgery outpatient department. MRI Brain Scan of the petitioner was also conducted on 30th June, 2011 and the latest status report submitted on the basis of said Brain Scan reads thus:

"A medical board was constituted, as per the direction of honourable court to examine Mr. Karim Morani, in particular his MRI Scan report. The Board comprised of

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1. Dr. Ajay Sharma HOD Dir. Prof. Of Neurosurgery
 2. Dr. Vinod Puri Dir. Prof. Of Neurology
 3. Dr. V.K. Trehan Prof. Of Cardiology.

The board met at 11.45 A.M. On 09.07.2011 in the Red Alert area as patient did not turn up till that time. The patient complained of experiencing episodes of momentary loss of consciousness, headache in the vertex area and increased frequency of micturition during night -time, during his stay in the jail. He had experienced palpitations and perspiration prior to the episodes of loss of consciousness. He had no history of seizures. He had no visual complaints. He had no history of nausea and vomiting.

On examination his pulse and blood pressure in the right arm in supine position were 72/min and 128/80 mm Hg, and 76/min and 122/86 mmHg respectively in standing position. There was no significant postural fall in blood pressure. There was no arrhythmia and his cardiovascular system examination was otherwise unremarkable.

A neurological examination revealed that he was conscious cooperative and well oriented in time and space. His cranial nerve examinations was normal and his fundii were normal. He had no pyramidal, cerebellar or any motor/sensory deficits. His gait was normal and rhomberg sign was negative.

There was no clinical evidence of any endocrine dysfunction. A Magnetic Resonance Image demonstrated a non-enhancing well defined pituitary micro-adenoma in the right side of the pituitary gland.

As per the Board, he has CAD, P/O CABG, normal left ventricular function, with pituitary micro-adenoma, a likely neurocardiogenic Syncope, along with anxiety.

He requires blood hormonal assays (ACTH, Prolactin, Cortisol, FSH, Growth hormone, Luteinizing hormone) along with plasma glucose and serum electrolytes to ascertain hormonal status so that the nature of the pituitary adenoma (endocrine inactive or active and its type) can be made out. Depending upon these results, further management (whether medical or surgical) will be decided. From cardiological side, he has been advised to continue treatment and precautions as previously recommended at the time of his discharge on 24th June 2011 along with Tab. Alprax 0.25 mg 1 tablet twice daily".

10. On perusal of the report from the Board of Doctors of G.B.Pant Hospital, the medical condition of the petitioner appears to be stable and he has been advised to continue treatment and precautions as

recommended to him at the time of discharge from G.B.Pant Hospital on 24th June, 2011. The report does not suggest that his medical condition cannot be managed in jail hospital.

11. Learned counsel for the petitioner has drawn my attention to the current medical status report of the petitioner submitted by the Board of Doctors constituted by the Medical Superintendent, G.B.Pant Hospital. It is recorded in that report that when Head-up-Tilt Test(HUTT) was being conducted, the petitioner became unconscious with unrecordable blood pressure and slowing of pulse to 47 beats/minutes, suggesting neurocardiogenic Syncope as the cause, predominantly vasodepressor type. Learned counsel has urged that such a situation can re-occur in jail and this may even prove fatal.

12. I am not convinced with the aforesaid submissions. HUTT procedure is an invasive procedure. Therefore, a possibility cannot be ruled out that the complication in the medical condition of the petitioner during HUTT test occurred only because of the invasive nature of the procedure.

13. On careful consideration of the previous medical reports of the petitioner and the medical reports received from the Board of Doctors of G.B.Pant Hospital, it is apparent that since his detention in jail, the condition of the petitioner is stable and it is being

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properly managed by medication. Thus, I do not find it a fit case for grant of interim bail on medical grounds, particularly when the release of the petitioner for a period of 4-6 weeks would not change his medical history or situation.

14. Application is, accordingly, dismissed.

15. Jail Superintendent concerned and the Medical Officer Incharge of the Jail Hospital, however, are directed to ensure proper treatment and monitoring the medical condition of the petitioner. It is further directed that the petitioner may be provided with the medical facilities as per the advice of the treating doctors at G.B.Pant Hospital and in case of need, he may be transferred as in-patient for seeking treatment.

JULY 19, 2011

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(AJIT BHARIHOKE)
JUDGE