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

+ **BAIL APPLN. 869/2023**

RAJESH P SHAH

..... Petitioner

Through: Mr. Ganesh Sharma, Adv. (VC)

versus

STATE OF NCT DELHI THROUGH SHO PS KOTWALI & ANR.

..... Respondents

Through: Mr. Amit Sahni, APP for State and
ASI Satyabir Singh, PS Kotwali.

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Date of Decision: 02.08.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 6967/2023

Exemption allowed subject to just exceptions.

Application stands disposed of.

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1. The present application has been filed for grant of regular bail in case FIR No. 15/2017 under Sections 420/406/174A IPC registered at PS Kotwali.
2. The medical status report dated 27.07.2023 has been sent which reads as under:

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“With references to the order of Registrar General, Hon'ble High Court of Delhi, at New Delhi seeking medical report of aforesaid inmate patient to be submitted as per date given.

As per available records, it is hereby submitted that the inmate patient admitted in Tihar CJ-4 on 08/09/2022, wherein his medical examination was done by the duty doctor. In medical examination, inmate patient gave alleged history of Type-II Diabetes mellitus. Hypertension, for which he was advised to review in OPD.

Thereafter on 09/09/2022, 14/09/2022, 17/09/2022, 24/09/2022, 13/10/2022, 18/10/2022, 25/10/2022, 01/11/2022, 17/11/2022, 08/12/2022, 12/12/2022, 15/12/2022, 22/12/2022 and 29/12/2022 inmate patient was seen by doctor on duty wherein he gave alleged history of Type-II Diabetes mellitus. Hypertension, alleged history of stent in 2017, complaint of itching over body, cold, sore throat, cough, hemorrhoid, for which he was thoroughly examined, advised appropriate treatment and specialist review accordingly.

In the meantime on 11/11/2022 inmate patient was reviewed by Jail visiting Medicine SR as a follow-up case of Type-II Diabetes mellitus. Hypertension, CAD post PTCA (2017), for which he was thoroughly examined, advised appropriate treatment accordingly.

It is to be informed that all the desired blood investigations have arranged from jail dispensary on 10/10/2022 as per report his HBA1c found on higher side 06.60 percent.

Thereafter on 22/12/2022 inmate patient was presented at jail dispensary in emergency with complaint of chest pain since night and Gabrahat, known case of Type-II Diabetes mellitus. Hypertension, angioplasty? (02 stent), for which after giving primary treatment he was immediately referred to DDU Hospital, wherein he was first examined by SR, accident and emergency and later referred to medicine



wherein he was thoroughly examined, on examination EGG suggestive of no dynamic changes, Trop-T-negative, advised appropriate treatment and sent back to CJ-04.

Thereafter on 05/01/2023, 12/01/2023, 19/01/2023, 27/01/2023, 02/02/2023,

05/02/2023, 11/02/2023 and 22/02/2023 inmate patient was again seen by doctor on duty as a follow-up case of Type-II Diabetes mellitus. Hypertension, cough, cold, chest pain, for which he was thoroughly examined, advised appropriate treatment accordingly.

In the meantime on 07/01/2023 inmate patient was reviewed by jail visiting Eye SR for the complaint of watering bilateral Eye, .known case of Type-II Diabetes mellitus, Hypertension, for which he was advised appropriate treatment and review accordingly.

Thereafter on 05/02/2023 inmate patient was presented at jail dispensary in emergency with complaint of recurrent hypoglycemia in 02 days, known case of Type-II Diabetes mellitus. Hypertension, CAD, complaint of dizziness, for which after giving primary treatment he was immediately referred to DDU Hospital, wherein he was first examined by SR, accident and emergency and later referred to medicine wherein he was advised for admission but patient not willing at present, advised to continue same medication and further advised to review in Medicine OPD with certain blood investigations accordingly.

Thereafter on 01/03/2023, 15/03/2023; 22/03/2023, 05/04/2023, 19/04/2023, 26/04/2023, 04/05/2023, 18/05/2023, 27/05/2023 and 31/05/2023 inmate patient was again seen by doctor on duty as a follow-up case of Type-II Diabetes mellitus. Hypertension, CAD, complaint of cracked heel, cough with expectoration, left ear ache, acidity, for which he was thoroughly examined, advised appropriate treatment accordingly.



In the meantime on 06/03/2023, 22/04/2023 and 01/06/2023 as a follow-up case of Type-II Diabetes mellitus. Hypertension, CAD-PTCA, for which he was advised appropriate treatment accordingly.

Thereafter on 06/06/2023, 16/06/2023, 24/06/2023, 11/07/2023, 12/07/2023, 19/07/2023 and 26/07/2023 inmate patent was again reviewed by doctor on duty as a follow-up case of Type-II Diabetes mellitus. Hypertension, for which he was advised appropriate treatment accordingly.

At present inmate patient is a follow-up case of Type-II Diabetes mellitus. Hypertension, alleged history of CAD post PTCA [2017), for which he is under regular follow-up from doctor on duty, jail visiting Medicine SR and all the medications as applicable are being provided to the inmate patient from jail dispensary itself.

This is for your kind information and onwards submission to the Hon'ble Court."

3. The bare perusal of the medical report makes it clear that the petitioner is suffering from Type-II diabetes and Hypertension and is on regular medicines.
4. The accused is in custody since 01.09.2022 and is around 57 years of age.
5. This is a case for cheating where the allegations of the prosecution is that the accused cheated the complainant with 2271.880 gms of gold valued at Rs.60,80,687/-. The accused issued the cheque for this amount which was dishonoured with the remark that payment is stopped by the withdrawer. It has been alleged that the petitioner, thereby, cheated the complainant and therefore the present FIR for cheating and criminal misappropriation was lodged.



6. The plea of the learned counsel for the petitioner is that; in fact the gold was returned by the petitioner in the year 2015 itself and thus, the matter was settled. Learned counsel further submits that this was the reason that the complainant did not file any complaint right after the cheque was dishonoured. It has been submitted that the present FIR came to be lodged only in February 2017.
7. The court at the stage of bail cannot meticulously examine the case and is only required to see the prima facie case. It is a matter of record that the FIR was lodged after a considerable delay. The reasons for the delay have to be appreciated during the course of evidence. It is also a matter of record that no complaint under Section 138 NI was filed.
8. Taking into account the prima facie case and the medical condition of the accused, the accused is admitted to bail on furnishing a personal bond of Rs. 1,00,000/- with one surety of the like amount.
9. The accused is admitted to bail subject to the satisfaction of learned Trial Court subject to the following conditions:
 - a) the Petitioner shall under no circumstances leave India without prior permission of the concerned Court;
 - b) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - c) the Petitioner shall provide his/her mobile number(s) to the Investigating Officer and keep it operational at all times;



- d) In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
10. Hence the present application stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 2, 2023/AR