

\$~11

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

Judgment delivered on: 24th September, 2015

+ **BAIL APPLN. 1786/2015**

SMT MITHLESH Petitioner

Represented by: Mr.Amit Sisodia, Adv

versus

STATE NCT OF DELHI Respondent

Represented by: Mr.Mukesh Kumar, APP for
the State.

**CORAM:
HON'BLE MR. JUSTICE SURESH KAIT**

SURESH KAIT, J. (Oral)

1. Pursuant to order dated 28.07.2015 passed in Bail Application No.53/2015, instant petition has been preferred by petitioner for bail on medical grounds.

2. By way of this petition filed petitioner seeks direction thereby releasing her on bail on medical grounds in case FIR No.356/2013 registered at police station Ambedkar Nagar for the offences punishable under Sections 302/365/201/120B/34 of the IPC.

3. Vide order dated 03.09.2015, jail authorities were directed to send the medical report of petitioner. Accordingly, the medical report dated 22.09.2015 signed by Medical Officer, CJ-6 Dispensary, Tihar Jail, New Delhi has been received to the following effect:-

Subject: Regarding health status of Smt. Mithlesh w/o Jaipal.

Hon'ble Sir,

The above said inmate is lodged in CJ-06 at present. Patient is diagnosed case of Cholelithiasis and anemia. Patient has been on regular follow up with jail doctors and also following up in DDU Hospital in surgery department where she has been advised elective surgery for Cholelithiasis.

Patient has undergone thorough pre-operative work up including blood tests, X-ray, ECG etc. followed by pre-anesthetic check up. She was seen by anesthetist who have advised that patient cannot be cleared for surgery from their side due to anemia and patient has to build up hemoglobin to $> 10\text{gm}\%$.

Patient is being provided therapeutics dosages of haematinic medicines regularly for last few months. Her HB test has been done at periodic intervals which showed to be in range of 8 to 9 gm% despite treatment. It could be due to either poor tolerance to oral haematinics or poor compliance of medical advise by the patient. So, patient was reviewed by medicine SR jail with fresh HB and peripheral smear for type of anemia report. Medicine SR ordered injectable iron preparations to be administered to the patient to build up the HB. But surprisingly patient has refused to get injectable iron and given written refusal for the same despite explaining to her that it is required to build her HB to a level $>10\text{gm}\%$ without which she cannot be cleared for surgery by anesthetist still patient was quiet adamant so she has been told to continue the oral medicines and complies strictly with the advise dosage. Her repeat HB is plan to be done after few weeks and again re-assist weather she can be sent for PAC clearance for surgery.

Meanwhile the patient does not have any such symptoms or clinical examination findings which may indicate any need of the surgery to be done in an urgently or in emergency. It is an elective plan surgery which will be done after fitness for surgery given by anesthetist though if any urgency or complication

develops in future patient will be immediately sent to DDU Hospital for further management.”

4. On perusal of report, the petitioner is diagnosed case of cholelithiasis and anemia. After pre-operative work she cannot be cleared for surgery due to anemia as her HB, range increased upto 8-9 gm% despite treatment.
5. As stated, she is suffering from multiple stones in gall bladder and out of them some of stones are more than 13 cm in size and due to which she is having sever pain and infection in her abdomen.
6. It is pertinent to mention here that earlier she was granted interim bail for a period 20 days and was released on 11.05.2014. Therefore, extended upto 19.08.2014 and never violated the protection granted.
7. Moreover, 20 witnesses out of 35 have already been examined. Co-accused Sagar is already on bail, her role was similar to said co-accused.
8. Keeping in view the medical conditions of petitioner, on humanitarian grounds I allow instant petition.
9. Consequently, the petitioner shall be released from jail on her furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of learned Trial Court. It is also directed that in case of any change in the address of petitioner or her surety the same shall be communicated by them to learned Trial Court and SHO concerned as well.
10. In above terms, instant petition is allowed and disposed of.

11. Order *dasti*.

**SURESH KAIT
(JUDGE)**

SEPTEMBER 24, 2015
M