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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 315/2019**

RAMINDER SINGH

.... Petitioner

Through: Mr. Vikas Padora, Advocate.

Versus

UNION OF INDIA

....Respondent

Through: Mr. Rajiv Sharma, APP for the
State.

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

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ORDER
17.04.2020

The hearing has been conducted through Video Conferencing.

Crl. M.A. 5816/2020

Exemption allowed, subject to the condition that the counsel for the petitioner will file the duly attested affidavit of petitioner or parokar of the petitioner within 72 hours from the date of resumption of the regular functioning of this Court.

Crl. M.A.5815/2020

1. Issue notice. Ld. APP for the State who appears on advance notice accepts notice.
2. By way of the present application, the petitioner is seeking interim bail for a period of 3 months on the ground of the present pandemic

condition in the country.

3. It is submitted by the Ld. Counsel for the petitioner that the petitioner has undergone a period of 5 years in the judicial custody. It is further submitted by him that the petitioner has filed a Writ Petition bearing No. 315/2018 which is pending before this Court in which the petitioner has challenged the inquiry report. He further submits that the petitioner has to look after his widow mother who is living alone in Chandigarh. It is further submitted by the counsel for the petitioner / applicant that no case U/s 375 IPC is made out against the petitioner. He further submits that on two previous occasions the petitioner has been granted interim bail which has never been misused by him.

4. On the other hand, it is submitted by the Ld. APP for the State that a thorough enquiry was conducted by the magistrate and after the inquiry the magistrate recommended Union of India to try the petitioner U/s 323/354/375/325/201 IPC. It is further submitted that as per the enquiry report a prima facie case under above mentioned sections is made out against the petitioner. He further submits that till date no relief has been granted to the petitioner in the Writ Petition bearing No. 315/2018 wherein he has challenged the recommendations of the enquiry report. He further submitted that the allegations against the petitioner are grave and serious in nature.

5. As far as the contention of the Ld. Counsel for the petitioner that a writ petition has been filed by the petitioner challenging the findings of the enquiry report, at this stage this has no bearing on the present application as no findings have been returned in favour of the petitioner so as to say that the recommendations in the enquiry report does not make out a

prima facie case against the petitioner.

6. Then it is urged by the counsel for the petitioner that looking into the present COVID-19 position, he is entitled to be released on interim bail, in view of the observations of the Hon'ble Supreme Court.

7. The Hon'ble Supreme Court took Suo Moto notice on the congestions in the various prisons in India and the present Covid-19 situation in the country. On 23rd March, 2020, the Hon'ble Supreme Court in Writ Petition (C) 1/2020 passed the following order :-

“X XXX

Having regard to the provisions of Article 21 of the Constitution of India, it has become imperative to ensure that the spread of the Corona Virus within the prisons is controlled.

We direct that each State Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/ Prison) by whatever designation is known as, (ii) Director General of Prison (s), to determine which class of prisoners can be released on parole or on interim bail for such period as may be thought appropriate. For instance, the State /Union territory could consider the release of 77 prisoners who have been convicted or are undertrial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum.

It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which

he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.

The Undertrial Review Committee contemplated by this Court In re Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700, shall meet every week and take such decision in consultation with the concerned authority as per the said judgment.

The High Powered Committee shall take into account the directions contained in para no. 11 in *Arnesh Kumar V. State of Bihar*, (2014) 8 SCC 273.”

8. Pursuant to the order of the Hon'ble Supreme Court dated 23rd March, 2020, a High Powered Committee of this Court vide its meeting dated 28th March, 2020 discussed and resolved the issues, relevant portion whereof is reproduced as under :-

"XXX XXX XXX

It has further been **resolved** that following category of UTPs, even if falling in the above criterion, **should not be** considered :-

- i All inmates who are undergoing trial for intermediary/large quantity recovery under NDPS Act ;
 - ii Those under trial prisoners who are facing trial under Section 4 & 6 of POCSO Act;
 - i Those under trial prisoners who are facing trial for the offences under section 376, 376A, 376B, 376C, 376D and 376E and Acid Attack;
 - ii Those UTPs who are foreign nationals;
- and
- i Those under trial prisoners who are facing trial under Prevention of Corruption Act (PC Act) /PMLA; and

ii Cases investigated by CBI/ED/NI/Special Cell Police and Terror related Cases, cases under Anti National Activities and Unlawful Activities (Prevention) Act etc.

xxx xxx xxx”

9. In view of the petitioner failing to qualify on the 3 criterias laid down by the High Powered Committee, the petitioner is not entitled to grant of interim relief as he is facing trial U/s 375 IPC. The application is, therefore dismissed.

RAJNISH BHATNAGAR, J

APRIL 17, 2020

Sumant