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

+ **BAIL APPLN. 776/2020**

BASUDEV

.... Petitioner

Through: Mr. Abani Kanta Sahu,
Advocate.

Versus

STATE

....Respondent

Through: Mr. Amit Gupta, 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. 5817/2020

Exemption allowed subject to just exceptions.

The application stands disposed of.

BAIL APPLN. 776/2020

1. Issue notice. Ld. APP for the State who appears on advance notice accepts notice.
2. By way of the present petition, the petitioner is seeking interim bail for a period of 45 days on the ground that he is handicapped person and suffering from severe diabetic and high blood pressure and the prevailing Covid-19 situation in the country.

3. It is submitted by the Ld. Counsel for the petitioner that the petitioner has been falsely implicated in the present case and it is falsely alleged against him that a bag containing 3.5 Kg of Charas was recovered from him. It is further submitted by the Ld. Counsel for the petitioner that looking into the present pandemic situation of COVID 19, it is dangerous for the petitioner / applicant who is suffering from diabetes and hyper tension to remain in jail. It is further submitted that the petitioner is not being provided proper treatment in jail. He has relied upon the order dated 18.03.2020 passed by the Ld. Special Judge.

4. It is further submitted by the Ld. counsel for the petitioner that as per the guidelines of the Hon'ble Supreme Court dated 23rd March, 2020, the petitioner is entitled to be released on interim bail.

5. The status report has been filed by the State by e-mail. It is submitted by the Ld. APP for the state that the petitioner was arrested when he was carrying with him 3.5 Kg Charas which is a commercial quantity. It is further submitted by him that the petitioner is being treated well for his medical condition by the jail authorities. He further submitted that all the tests as prescribed by RML Hospital and other doctors have been duly conducted on the petitioner and the condition of the petitioner is stable.

6. As far as the first contention of the Ld. Counsel for the petitioner that the petitioner be released on interim bail in view of the directions of the Hon'ble Supreme Court keeping in view the present Covid-19 situation in the country has no force in it.

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

condition in jail. I have gone through the health status report of the petitioner filed under the signatures of medical officer In-charge, Tihar Jail. The perusal of the report shows that all due medical attention and treatment has been given to the petitioner and all his complaints regarding his health have been duly attended and addressed. The petitioner was even taken to RML hospital where his 2D Echo Test was also carried out which showed his normal valve functions. The health status report of the petitioner reveals that Haemogram, Liver Function test, Kidney function Test, Lipid Profile were all carried out and were found to be within normal limits.

11. The further perusal of the health status report of the petitioner shows that his condition and vitals are stable and regular treatment and follow-up from Jail doctors and RML hospital is being under taken. All the prescribed medicines are being provided to him.

12. Therefore, keeping in view the aforesaid circumstances, no ground for interim bail on any ground is made out. The application is, therefore, dismissed.

RAJNISH BHATNAGAR, J

APRIL 17, 2020

Sumant