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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1003/2020

GAURAV MEHTA

..... Petitioner

Through : Ms.Neha Kapoor, Advocate.

versus

NARCOTICS CONTROL BUREAU

..... Respondent

Through : Mr.Rajesh Manchanda, SPP for NCB.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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03.06.2020

1. The hearing has been conducted through Video Conferencing.
2. This interim bail application is moved by the petitioner for six weeks. The status report is filed. It is stated by the learned counsel for respondent, the mother of the applicant is hale and hearty and even certificate at page No.74 of paperbook shows *no surgery intervention*. However, a bare perusal of such certificate issued by Dr.Ashok Gupta probably means he has not treated her surgically. Nevertheless, this certificate says the patient (mother of applicant) is suffering from *severe hypertension, persistent vomiting, acute or chronic kidney failure with acute breathlessness and others*.
3. The learned counsel for applicant says earlier on similar ground interim bail was granted to the petitioner by this Court per order dated 05.02.2020.
4. It is pertinent to mention co-accused has since been granted regular bail by the learned Trial Court vide order dated 30.05.2019, *rather on merits*. The crux of the said order can be found in the

following paragraph of the said order:-

“..... It is contended that the preparation of Panchanama and conducting seizure proceedings as referred supra are doubtful as the aforesaid proceedings were conducted at 2 different places and surprisingly Sh.Virender Kumar, IO, Hawaldar Sanjeev Kumar, Babu Lal and IO Anand Kumar are member of raiding party of both the proceedings. It is contended that how the aforesaid officials were present at same time at two different places and the Panchanam was also drawn at the same time, which create serious doubt about search and seizure proceedings. In rebuttal to this argument Ld. SPP has contended that in the second Panchnama which was drawn by IO Rajesh Kumar the name of all the members of Raiding Party have been mentioned and half of the member had gone to the office of DHL and other at Kirti Nagar. It is significant to note herein that there is nothing recorded in this regard either in the panchnama or in the complaint and thus it could be said that this is an afterthought and creates serious doubt about search and seizure proceedings. The members of the raiding parties at both the places which are far away are common. IO Anand Kumar is the Seizing Officer at DHL Express. How the said officer could be present at the same time at two different places finds no explanation. Further more, it has been contended by the Ld. Counsel that in the present case the recipient of the secret information and the Investigating Officer was same which was in total contravention of the direction issued by Hon'ble Supreme Court in case of Mohan Lal vs State of Punjab (2010) 4 LRC 123 SC, which has been upheld in Varinder Kumar vs State of Himachal Pradesh, CRA No.2450-51.

5. Though, it is argued by the learned SPP for the NCB that said order is now being challenged and the petition for cancellation of bail has since been filed in this Court, but as the facts exist the said co-accused is on bail.

6. Thus, considering the overall circumstances; the period of custody undergone by the applicant during trial; and also the bail order of co-accused, the applicant is granted interim bail for *four weeks* from the date of his release from Prison on his executing a personal bond of Rs.15,000/- to the satisfaction of the Jail Superintendent/Duty MM. The surety of the like amount shall be

furnished by the petitioner within a week of the learned Trial Court resuming its normal functioning. However, if the period of interim bail expires before the learned Trial Court starts/resumes its normal functioning and the applicant surrenders, then there would be no need to furnish the surety before it. The applicant is also directed to provide his contact number/address to the Intelligence Officer, NCB as also he shall keep open his location application in his mobile at all time.

7. The petition stands disposed of in above terms.

8. Copy of this order be sent electronically to the learned Trial Court/ Jail Superintendent for compliance.

YOGESH KHANNA, J.

JUNE 03, 2020

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