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

+ **BAIL APPL. 1031/2020**

RAJEEV @ RAJU

..... Applicant

Through: Mr. Anil Goel, Adv.

versus

STATE/ N.C.T. OF DELHI

..... Respondent

Through: Mr. Tarang Srivastava, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **10.07.2020**

CRL.M.(B) No. 6396/2020 (for interim bail)

The applicant, who is an undertrial in case FIR No. 17/2020 registered under sections 308/186/353/34 IPC and sections 33/58(d) of the Delhi Excise Act 2009 at PS : Alipur, had sought regular bail in the matter. Mr. Anil Goel, learned counsel for the applicant however submits that the application may be treated as one for interim bail.

2. Pursuant to the last order, the State has filed status report dated 09.07.2020 along with a copy of interim bail order dated 13.04.2020 in respect of co-accused Manoj, as also SCRB report dated 08.07.2020 in respect of the applicant.
3. Nominal roll dated 23.06.2020 is on record. Medical status reports dated 09.06.2020, 16.06.2020 and 22.06.2020 are also on record.

4. Mr. Goel submits that the applicant has been in judicial custody since 18.01.2020 ; charge-sheet in the matter was filed on 17.03.2020 ; and that the main offence alleged, from which the matter arises, is under sections 33/58(d) of the Delhi Excise Act 2009 ; and that by order dated 13.04.2020 co-accused Manoj has already been granted bail by the learned Sessions Court.
5. Specifically on the matter of interim bail, Mr. Goel submits that the applicant requires surgery for his fractured hand, which has not healed properly ; and also needs to look after his wife and 6-month old child during the COVID-19 pandemic. Counsel submits that the applicant's parents do not look after his family since he had got married against their wishes.
6. Opposing grant of interim bail, Mr. Tarang Srivastava, learned APP submits that, as will be seen from the SCRB report, the applicant is a repeat offender, with 03 cases arising from similar offences pending against him, including for sale of illicit liquor.
7. In the present case, it is argued that 6500 quarters of illicit liquor was recovered from a Tata Ace vehicle, whereupon the applicant came to the spot and beat-up the excise officials.
8. Mr. Srivastava also points-out that to begin with the applicant was seeking regular bail in this matter, whereas co-accused Manoj had already been granted interim bail for a period of 45 days due to the prevailing pandemic. Now however, the applicant has changed his prayer and is no longer seeking regular bail on merits.
9. The applicant's nominal roll shows that he has spent about 05 months in judicial custody ; that his jail conduct has been satisfactory ; and his

nominal roll records only 01 other case pending against him under the Delhi Excise Act. The medical status reports say that the applicant's X-ray is suggestive of a "*united fracture distal one third of left ulna with healing in process with callus formation with malunion*"; but says that there is no urgent surgical intervention required.

10. Upon an overall conspectus of the facts and circumstances of the case, this court is persuaded to grant to the applicant *interim* bail for a period of 45 (forty-five) days from the date of his release, subject to the following conditions :

- (a) The applicant shall furnish a personal bond in the sum of Rs.50,000/- with 01 surety in the like amount from a family member, to the satisfaction of the Jail Superintendent ;
- (b) The applicant shall not leave the State of Delhi without permission of the court and shall *ordinarily* reside in his place of residence as per prison records;
- (c) The applicant shall present himself before the Investigating Officer/SHO PS: Alipur every Wednesday between 11 am and 11:30 am to mark his presence. However, the applicant shall not be kept waiting at the police station for more than one hour for this purpose;
- (d) The applicant shall furnish to the Investigating Officer/SHO a cell phone number on which the applicant may be contacted at any time and shall ensure that the number is kept active and switched-on at all times ;
- (e) If the applicant has a passport, he shall also surrender the same to the Jail Superintendent;
- (f) The applicant shall also furnish to the I.O. documentary proof of the follow-up treatment and surgery, if any, undergone by him for his fractured hand;

- (g) The applicant shall not contact nor visit nor offer any inducement, threat or promise to the first informant/complainant or to any of the prosecution witnesses. The applicant shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the matter;
- (h) Upon expiry of the period of interim bail, the applicant shall duly surrender before the concerned Jail Superintendent.

- 11. Nothing in this order shall be construed as an expression on the merits of the pending matter.
- 12. The application stands disposed of.
- 13. Other pending applications, if any, also stand disposed of.
- 14. Copy of this order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

JULY 10, 2020/uj