

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

Judgment reserved on: 16.09.2020
Judgment pronounced on: 03.11.2020

+ **BAIL APPLN.-1225/2020**

KASHISH JAIN

....Petitioner

Through: **Mr. Ajay P.Tushir, Advocate.**

Versus

THE STATE

..... Respondent

Through: **Mr. G.M.Farooqui,**
Learned APP for the State.
SI Pradeep, PS Model Town.
Mr. Sumit Choudhary,
Learned counsel for the
complainant.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

JUDGMENT

BRIJESH SETHI, J.

1. The hearing has been conducted through video conference.
2. This application has been filed by the petitioner under Section 439 Cr.P.C. read with Section 482 Cr.P.C. seeking interim bail for one month in FIR bearing no. 341/2018, under section 420/467/468/471/34/120 IPC, registered at P.S. Model Town, New Delhi on the ground of his illness and Covid-19 pandemic.
3. Learned counsel for the petitioner has submitted that petitioner is a young boy of 26 years and is in custody since 24th November, 2018. He is innocent and has been falsely implicated in

the present case. Petitioner is suffering from albinism and nystagmus for the last several months and due to lack of regular treatment, a squint has developed in his eyes. It is submitted that because of neurological disorder, body of the petitioner keeps trembling specially his head and hands and in the absence of proper treatment in jail, particularly in this Covid-19 pandemic, any stress or depression may be harmful to the petitioner. It is further submitted that patient of psychiatric ailments who suffers with panic disorder, obsessive-compulsive disorder, movement disorders etc. has a mysterious enigma that challenges individuals on many levels.

4. It is next submitted that vide prescription dated 25th August, 2020, the doctor has incorporated a medicine namely 'Propranolol 20 mg' which is specific for the treatment for the above stated disorders. Thus, it is amply clear that petitioner is going through acute Psychiatric ailment. It is further submitted that predecessor of this Court after taking into account prescription dated 27th February, 2020 issued from Dr. BSA Hospital, Rohini had issued specific directions to Medical officer-in-charge, Central Jail to carry out a psychiatric examination of the applicant wherein it was specifically mentioned that "*medicines to be given under strict supervision by jail authorities and no active suicidal means to be kept near patient, strict supervision 24X7*" but in response, jail authorities failed to submit appropriate report as directed by this Court and instead of that a simple verification report dated 28th July, 2020 has been

submitted. In view of the above ailment of the petitioner, the learned counsel has prayed for grant of interim bail for one month.

5. Reply and rejoinder to the interim bail application have been filed by the parties. During the course of arguments, it was made clear by learned counsel for the petitioner that he was confining his arguments on interim bail on medical grounds only and does not press any relief on merits or recommendations of High Powered Committee. It is further submitted that a regular bail application bearing no. 1788/2020 has been filed separately and merits of the case have been argued in the same by learned senior counsel.

6. Learned Additional Public Prosecutor for the state and learned counsel for the complainant have opposed the interim bail application on the ground that offence committed by the petitioner is serious in nature. With regard to medical ailments of the petitioner, it is submitted that petitioner is not suffering from any serious illness and his condition is normal. It is submitted that the petitioner had preferred a bail application no. 617/2020 before the Sessions court wherein Dr. Preeti Sharma, Senior Resident Psychiatric, Central Jail in her report dated 16th March, 2020 has observed that ***“in addition there is significant evidence of manipulation in presentation of his psychological symptoms”***. Further as per status report dated 22nd June, 2020 submitted before this court, it was stated that petitioner has deliberately discontinued his medical treatment without any medical advice. It is further submitted that aforesaid conduct of the petitioner reveals manipulation in presentation of his psychological illness. It is lastly argued that as

per the latest medical report dated 9th September, 2020, currently all the prescribed treatments are being provided to the inmate. There is no deterioration/worsening of symptoms of the above mentioned inmate. His general condition is stable and satisfactory. It is, therefore, submitted that his interim bail application be dismissed.

7. This court has considered the rival submissions. Petitioner is seeking interim bail for one month mainly on the ground of his ailments as he is stated to be suffering from albinism, nystagmus, stress and depression.

8. The offence committed by the petitioner is serious in nature. He is alleged to be the beneficiary of Rs. 2.20 Crore. However, this court is not going into the merits of the case as the same has been discussed in regular bail application and is confining its order for interim bail on medical grounds.

9. Perusal of medical status report dated 9th September, 2020, reveals that petitioner is having bilateral horizontal nystagmus in both eyes since birth. He had visited Dr BSA Hospital on date 6th February, 2020 where his fundus examination was done and Doctor had advised him to wear glasses. He was also reviewed by Ophthalmologist on date 17th February, 2020 and advised to wear glasses during his routine activity. No worsening of nystagmus in bilateral eye was noted. He is under regular follow-up from Ophthalmologist (jail visiting doctor, Dr.BSA Hospital and from DDU hospital) for his Nystagmus. With regard to albinism (absence of skin pigmentation), it is opined that no intervention/treatment is advised/required at present. As far as psychiatric ailment of the

petitioner is concerned, it is reported that he was reviewed by Jail visiting psychiatric specialist on 16th January, 2020 for the complaint of sleeplessness and medication was given for the said purpose. His condition was also reviewed by psychiatric specialist on 18th July, 2020 where he was diagnosed as a case of emotionally unstable personality disorder (EUPD). During examination, he was prescribed medication and counseling was done. The inmate's last visit to Psychiatrist was on 22nd August, 2020 where he was examined by Psychiatrist and advised medication and counseling was also done. It is also clearly mentioned in the medical status report of the petitioner that **“currently, all the prescribed treatments are being provided to the inmate. There is no deterioration/worsening of symptoms of the above mentioned inmate. His general condition is stable and satisfactory.”**

10. Learned counsel for the complainant has submitted that doctor Preeti Sharma in her report i.e. ‘Behavioural Report of Inmate Kashish Jain S/o Naresh Jain’ has made the following observations on 16th March, 2020.

- After preliminary evaluation, he has been found to be having no psychiatric illness but possibility of emotionally unstable personality which tends to manifest with transient mood swings.
- **In addition there is significant evidence of manipulation in presentation of his psychological symptoms.**

16.03.2020

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Dr. Preeti Sharma
Senior Resident Psychiatry
Central Jail Hospital, Tihar,
New Delhi-110064.

11. Learned counsel has, thus, argued that doctor has categorically observed that there is an endeavour on the part of petitioner to manipulate his psychiatric symptoms. Moreover, as per latest medical report, his condition is stable and petitioner is, therefore, not entitled to interim bail on medical ground.

12. This court has considered the medical report of the petitioner. Perusal of medical report reveals that petitioner is having some psychiatric problem and is complaining of sleeplessness. As per latest report dated 9th September, 2020 of Medical Officer in-charge of Central Jail, the petitioner is being given treatment as well as counseling. The relevant portion of his report runs as under:-

“The inmate also visited psychiatric OPD on date 08.12.2018 for the complaint of decrease sleep, for which medication was given. The inmate also discontinued the psychiatric treatment in between by his own without any consultation from the doctor. He was reviewed by Jail visiting psychiatric specialist on 16.01.2020 for the complaint of decrease in sleep, medication was given. The inmate was also reviewed by psychiatric specialist on date 18.07.2020 where he was diagnosed as a case of emotionally unstable personality disorder (EUPD), During examination, he was prescribed medication and counselling was done. The inmate’s last visit to Psychiatrist was on date 22.08.2020 where he was examined by Psychiatrist and advised medication and counselling was done.”

Medical Officer In-charge
Central Jail Hospital &
Dispensary, Central Jail
No.3 Tihar New Delhi
110064.

13. Perusal of the above medical report reveals that petitioner is getting all the required medical treatment and is being attended by a psychiatrist. The last para of the report is very much relevant and runs as follows:-

“Currently, all the prescribed treatments are being provided to the inmate. There is no deterioration/worsening of symptoms of the above mentioned inmate. His general condition is stable and satisfactory.”

Medical Officer Incharge
Central Jail Hospital &
Dispensary, Central Jail
No.3 Tihar New Delhi
110064.

14. The report, thus, reveals that all required treatment is being provided to the petitioner and his condition is stable and satisfactory. In these circumstances, no grounds for interim bail on medical grounds are made out.

15. As discussed earlier, the petitioner has not pressed his arguments on the point of recommendations of High Powered Committee dated 18th May, 2020 since case of the petitioner is not covered under the same. Similarly, learned counsel for the petitioner has not made his arguments on merits, since a separate application has been filed and argued by the learned counsel and has been decided vide a separate order of even date.

16. In view of the above discussion, this court is of the view that at present petitioner is not suffering from any such serious ailment

which warrants his release from jail on interim bail. Thus, keeping in mind all the facts as discussed above, no grounds for interim bail on medical grounds are made out at this stage. The interim bail application is, therefore, dismissed and stands disposed of accordingly.

17. A copy of this order be sent to the concerned Jail Superintendent via electronic mode.

18. The order be uploaded on the website of this court forthwith.

NOVEMBER 03, 2020

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BRIJESH SETHI, J

