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via Video-conferencing

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

+ BAIL APPL. 1281/2020

AMIT

.....Applicant

Through: Ms. Abhilasha Sherawat,
with Mr. Rahul Sharma,
Advocates.

versus

STATE (GOVT. OF N.C.T. OF DELHI)

....Respondent

Through: Mrs. Neelam Sharma, APP
for the State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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26.06.2020

The applicant is an undertrial in case FIR No.239/2019 registered under sections 21/25 of NDPS Act at PS: Crime Branch. As per the allegations in the FIR, the applicant was apprehended with 200 gms of heroin which was contained in a black polythene bag, which, it is stated the applicant threw on the road when accosted.

2. By way of the present application, the applicant seeks interim bail on the ground that his wife is suffering from fever with cough and breathlessness, and has itching over the entire body and infection in lower abdomen and perineal area. Medical certificate and records in that regard have been filed. Furthermore, at the hearing today, counsel for the applicant submits that applicant's grandfather has passed-away on

25.06.2020, in support of which a cremation slip and related documents have also been forwarded to the court *via* email. Let such documents be placed on record.

3. Status report dated 24.06.2020 and nominal roll dated 24.06.2020 are stated to have been filed in the matter. However the same are not on record. Copies have been forwarded *via* email by the APP and have been perused. Let the status report and nominal roll be brought on record.

4. In status report dated 24.06.2020, the State has verified the medical condition of the applicant's wife as also the fact that the applicant's family comprises his wife, 02 children and his parents who reside in the same premises in Sultanpuri, Delhi.

5. Ms. Abhilasha Sherawat, learned counsel appearing for the applicant states that the worst case against the applicant is that 200 gms of heroin was recovered from him, which is not 'commercial quantity' but only intermediate quantity under the relevant notification issued under the NDPS Act. Counsel states that, as recorded above, the applicant's wife has been suffering from medical problems including a skin disease which requires monitoring and repeated visits to the doctors to prevent it from getting worse. She points-out that even medical certificate dated 06.06.2020 filed with the status report confirms that it would take 6-8 weeks for the patient to recover; and that the patient requires regular dressing in the affected area and surgical debridement. It also records the the patient has been strictly advised to stay indoors during the prevailing pandemic, since her immunity at this time would be

low. In addition, counsel points-out that as evidenced by the cremation slip and other documents, the applicant has lost his grandfather yesterday, which also makes it necessary for him to be with his family, at least for some time.

6. On the other hand Ms. Neelam Sharma, learned APP contends that the allegation against the applicant is that he was indulging in supply of narcotic drugs ; and that quantity of heroin recovered from him is just barely below the commercial limit of 250 gms. Ms. Sharma contends, that as recorded in the status report, the applicant's parents reside in the same premises as the wife and are therefore there to look after her medical needs.

7. Nominal roll dated 24.06.2020 received in the matter shows that the applicant has been in custody as an undertrial for over 09 months; that his jail conduct is satisfactory; that he was granted interim bail earlier from 25.10.2019 to 29.10.2019 ; and there is no allegation that he misused the privilege of bail or did not surrender in time.

8. Upon a conspectus of the facts and circumstances of the case, especially the fact that the applicant's wife appears to be suffering from a skin disease which requires follow-up treatment and that doctors have opined that she should remain indoors since she would be prone to infection during the pandemic due to her low immunity; and also that the applicant has lost his grandfather yesterday, this court is persuaded to grant to the applicant *interim* bail for a period of 03 (three) weeks from the date of his release upon the following conditions:

- a. The applicant shall furnish a personal bond in the sum of Rs.25,000/- with 01 surety of the like amount from a blood relative, 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 report to the IO/SHO of PS: Crime Branch, Delhi every Tuesday between 11 am and 11:30 am to mark his presence; but he will not be kept waiting for longer than one hour for this purpose.
- d. The applicant shall furnish to the Investigating Officer/SHO a cellphone 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 it to the Jail Superintendent;
- f. 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 pending matter ;
- g. Upon expiry of the period of interim bail, the applicant shall surrender before the concerned Jail Superintendent.

9. Nothing in this order shall be construed as an expression on the merits of the pending matter.
10. Application stands disposed of.
11. A copy of this order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J

JUNE 26, 2020

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