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via Video-conferencing

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

+ **BAIL APPL. 1323/2020**

ATUL AGGARWAL

.....Petitioner/Applicant

Through : Ms. Archana Sharma,
Advocate.

versus

DRI

..... Respondent

Through : Mr. Satish Aggarwala,
Senior Standing Counsel
for DRI.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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02.07.2020

The applicant, who is an undertrial in the proceedings arising from complaint No. SC 7396/2016 filed by the Directorate of Revenue Intelligence (DRI), seeks interim bail on medical grounds.

2. Pursuant to notice issued in this matter on 19.06.2020, the DRI has filed a reply dated 26.06.2020 opposing the grant of interim bail. Nominal roll dated 30.06.2020 and medical status report dated 30.06.2020 have also been received from the jail administration.

3. Ms. Archana Sharma, learned counsel appearing for the applicant points-out that the applicant has been in custody as an undertrial for around 07 years and 10 months ; that he is suffering from multiple medical problems as borne-out by the medical status report filed by the jail administration; that the applicant's conduct in jail has been 'good' not just satisfactory ; and that the applicant has availed interim bail only on one occasion in July-August 2018, with

no allegation that he misused the privilege of bail or that he did not surrender on time.

4. Other things apart, Ms. Sharma points-out that the main accused in the matter, Paramjit Singh Gulati has already been granted interim bail by a Co-ordinate Bench of this court *vidé* order dated 04.06.2020 made in Bail Appl. No. 996/2020. A copy of this order has been forwarded by Ms. Sharma *via* e-mail.

5. Ms. Sharma stresses that considering the applicant's vulnerable health condition, he be granted interim bail to avoid unwarranted exposure to coronavirus infection in prison.

6. Opposing the grant of bail, Mr. Satish Aggarwala, learned Senior Standing Counsel appearing for DRI submits that the applicant is not entitled to bail in view of the embargo contained in section 37 of the NDPS Act, 1985 as also the recommendations of the High-Powered Committee of this court appointed to look into the decongestion of prisons, the recommendation of which committee exclude NDPS undertrials from the category of eligible applicants.

7. While accepting that co-accused Paramjit Singh Gulati has been granted interim bail on medical grounds, Mr. Aggarwala however submits that the applicant is not entitled to parity on that ground. He further points-out that the applicant is involved in 02 cases under the NDPS Act, and for the second one, a complaint has already been filed. Ms. Sharma however disputes the pendency of a second case, saying that the case arises from the same alleged recovery made from the applicant, which recovery is being shown in two parts.

8. Nominal roll received from the prison confirms that the applicant has spent about 07 years and 10 months in prison as an undertrial ; that his jail conduct is 'good' and that he has availed interim bail earlier on 21.07.2018 to 03.08.2018. The nominal roll does not reflect any prior or other criminal involvement of the applicant.

9. The medical status report received from the jail administration is telling, inasmuch as it reflects that the applicant has suffered from multiple medical problems from time-to-time, including loss of consciousness leading to a fall in the bathroom ; diagnosis of seizures; an ECG showing abnormal findings ; episodes of anxiety, shortness of breath, fearfulness requiring nebulization ; and also a clear finding that the applicant is a patient of uncontrolled diabetes mellitus with hypertension.

10. On an overall conspectus of the facts and circumstances , and in particular considering the applicant's evidently vulnerable health condition, this court is persuaded to grant to the applicant *interim* bail for 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 of 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 at the address mentioned in the prison records;

- c. The applicant shall present himself before the Intelligence Officer, DRI on every Wednesday between 11 am and 11:30 am to mark his presence. However he will not be kept waiting for longer than one hour for this purpose;
 - d. The applicant shall furnish to the Intelligence Officer, DRI, 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 not contact nor visit nor offer any inducement, threat or promise 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.
- 11. Nothing contained in this order shall be construed as an expression on the merits of the pending matter.
 - 12. The application stands disposed of in the above terms.
 - 13. Other pending applications, if any, also stand disposed of.
 - 14. A copy of this order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

JULY 02, 2020/j