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via Video-conferencing

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

+ **BAIL APPL. 1324/2020**

PAWAN KUMAR

..... Petitioner/Applicant

Through: Mr. Samrat Nigam, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) Respondent

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

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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03.07.2020

The applicant, who is an undertrial in case FIR No. 64/2018 registered under section 22/23/29/38 of NDPS Act at PS: Special Cell, seeks interim bail on the ground that his wife requires surgery, for which he needs to make financial arrangements and provide support.

2. Status reports dated 27.06.2020 has been filed in the matter. However the same is not on record. Mr Tarang Srivastava, learned APP has forwarded a copy of status report dated 27.06.2020 *via* email, which has been perused. Let the same be brought on record.

3. Nominal roll dated 01.07.2020 and status report dated 01.07.2020 have been received from the Jail Superintendent.

4. Mr. Samrat Nigam, learned counsel for the applicant submits that the applicant has been in judicial custody since 04.06.2018 and has accordingly spent about 02 years in jail as an undertrial. Counsel submits that the applicant's general conduct in jail has been satisfactory ; and although a punishment was awarded to him on 10.06.2019 by reason of a small incident in prison, the applicant was granted interim bail on 03 occasions, in January 2019, April 2019 and then again on 18.06.2019 *i.e.* immediately after the jail punishment dated 10.06.2019. Counsel submits that there is no complaint that the applicant ever misused the liberty of interim bail; or that he did not surrender on time. Counsel further submits that while the applicant's wife has been suffering by reason of a stone in the ureter with recurrent pain, which has not been relieved by medicine, surgery which was advised some time ago could not be conducted for various reasons, including denial of bail and non-availability of financial resources. Counsel further submits that the applicant's wife resides with their 02 minor daughters in Village Rajlugarhi, District Sonapat, Haryana and although the applicant's brother resides nearby with his family, the brother is of no help, especially in the present times of the pandemic.

5. Relying upon status reports dated 27.06.2020 and 01.07.2020 filed on behalf of the State, Mr. Srivastava, has opposed grant of interim bail principally on the ground that no fixed date for surgery has been indicated by the applicant ; and that, interim bail ought not to be granted in such an open-ended situation. Mr. Srivastava however fairly agrees that multiple medical reports, as referred to in status report dated

27.06.2020, do confirm that the applicant's wife suffers from a stone in the ureter, which has not been amenable to treatment by medicines and that surgery has been advised.

6. In response to the objection taken by the State, Mr. Nigam submits that, as will be seen from status report dated 27.06.2020, though doctors have repeatedly advised surgery, the applicant needs to be released from prison to make arrangements for the surgery, including for arranging finances, whereupon further medical investigations will be done, and only then would doctors give a firm date for the wife's operation. Counsel offers that the applicant may even be directed to furnish proof of surgery as a condition for grant of interim bail.

7. The submissions made on behalf of the applicant are indeed borne-out by status reports dated 27.06.2020 and 01.07.2020 as also by nominal roll dated 01.07.2020.

8. Upon a conspectus of the facts and circumstances, this court is persuaded to grant to the applicant *interim bail* for a period of 30 (thirty) 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.25,000/- 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 National Capital Region 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/Incharge of PS:Special Cell, Delhi on every Wednesday between 11 am and 11:30 am to mark his presence. However, the applicant shall not be kept waiting for longer than one hour for this purpose.
- d. The applicant shall furnish to the Investigating Officer/Incharge 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 the same 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; nor shall the applicant contact any of the co-accused. 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.
- h. After discharge of his wife from hospital, the applicant shall furnish to the Investigating Officer documents relating to the surgery and treatment of his wife.

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

ANUP JAIRAM BHAMBHANI, J

JULY 03, 2020

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