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

+ **BAIL APPL. 1329/2020**

RICKY KATARIAPetitioner/Applicant.
Through : Mr. M.P. Sinha, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI)..... Respondent
Through : Ms. Neelam Sharma, APP for
State.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
% **22.07.2020**

BAIL APPL. 1329/2020

By way of the present application, the applicant, who is an accused in case FIR No. 964/2016 registered under sections 498A/302/304B/34 IPC at PS : Vasant Vihar, Delhi, seeks interim bail.

2. Notice in this application was issued on 19.06.2020.
3. The State has filed status reports dated 19.06.2020, 06.07.2020 and 21.07.2020.
4. Nominal roll dated 15.07.2020 has also been received.
5. The applicant, along with his father Sukhbir Kataria, mother Smt. Rajbala, and sister Smt. Renu are all accused in the case arising from allegations under sections 498A/302/304B/34 IPC in relation to the applicant's deceased wife.

6. The applicant has 02 minor children, a daughter aged about 09 years and a son aged about 04 years.
7. The applicant's mother was granted interim bail *vidé* order dated 26.05.2020 made by the learned Roster Judge/Additional Session Judge (ASJ). The applicant's father was also granted interim bail *vidé* order dated 03.06.2020 made by learned ASJ.
8. As of date, this court is informed that the applicant's mother has surrendered to custody after expiration of her interim bail period; but the applicant's father has availed the benefit of order dated 13.07.2020 made by a Full Bench of this court in W.P.(C) No. 3037/2020 titled ***Court on its own Motion vs. State & Ors.***, whereby undertrials who were on interim bail as on the date of that order, have been granted extension of interim bail till 31.08.2020 on the same terms and conditions as were imposed earlier.
9. It was stated in the bail application that the applicant's minor son was suffering from pneumonia with bronchitis and respiratory distress; that he was hospitalized from 04.06.2020 to 14.06.2020; and that he required regular nebulisation, with follow-up treatment and care.
10. These facts were substantially confirmed by the status reports filed by the Sate.
11. On the last date of hearing, counsel for the applicant had apprised this court that although the applicant's father is still on interim bail, he is himself an aged person with attendant health problems, and is not in a position to look after the applicant's minor children. It was further stated that until recently, the applicant's

children were being looked after by the applicant's maternal aunt Smt. Naresh, namely the sister of the applicant's mother ; but that the said aunt had now declined to do so, since she had lost her mother-in-law and needed to take care of the father-in-law and her immediate family.

12. In status report dated 21.07.2020 the State has verified that on 08.07.2020, Smt. Naresh's mother-in-law passed away, by reason of which she has returned to her own residence in North-West Delhi. By reason of the demise of her mother-in-law, Smt. Naresh has confirmed that she needs to look after her aged father-in-law and her family and is therefore not in a position to look after the applicant's children.

13. Insofar as the applicant's sister Renu is concerned, she is also an accused in this case. Although she is stated to be on interim bail, it is stated that she has a family of her own to look after and is therefore not available to look after the applicant's children.

14. Nominal roll dated 15.07.2020 records that there is at least one other case being case FIR No. 1313/2015 registered under sections 452/354/509/506/325/34 IPC at PS : Vasant Vihar, Delhi which is pending against the applicant, although the applicant is on bail in that case. The applicant's jail conduct is also stated to be un-satisfactory due to punishment dated 23.08.2019 having been awarded to him for recovery of certain prohibited articles.

15. The applicant is stated to have been in judicial custody for about 03 years and 07 months.

16. That said however, the nominal roll does reflect that the applicant was released on interim bail twice, from 30.11.2019 to 07.12.2019 and from 11.03.2020 to 14.03.2020; and there is no

allegation that the applicant did not surrendered on time or that he misused interim bail granted to him.

17. Although there is much to be said about the seriousness of the allegations against the applicant as also about his conduct, what weighs very heavily with this court is the completely unenviable and distressful condition in which the applicant's minor children find themselves. As discussed above, it appears that there is no responsible, able-bodied person available to look after the two minor children, who, if no arrangements are made for their care and welfare, would find themselves in an almost destitute situation.

18. In the above circumstances and *with a specific direction to the applicant to make suitable arrangements for the care and welfare of his minor children*, this court is persuaded to grant to the applicant interim bail for a period of 60 (sixty) days, subject to the following conditions :

- (a) The applicant shall furnish a personal bond in the sum of Rs.50,000/- along with 01 surety of the like amount from a 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 at the address mentioned in this application;
- (c) The applicant shall present himself on every Wednesday between 11 am and 11:30 am before the Investigating Officer, and in case the Investigating Officer is not available, then before the SHO PS : Vasant Vihar, to mark his appearance. However, the applicant will not be kept waiting for longer 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 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.

19. Nothing in this order shall be construed as an expression on the merits of the pending matter.

20. A copy of this order be sent to the concerned Jail Superintendent.

21. The application stands disposed of.

22. Other pending applications, if any, are also disposed of.

ANUP JAIRAM BHAMBHANI, J.

JULY 22, 2020

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