

via Video-conferencing

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

+ **BAIL APPL. 1371/2020**

SAMSON JACOB

..... Applicant

Through: Ms. Kirty Agarwal, Adv.

versus

STATE (NCT OF DELHI)

..... Respondent

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

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **25.06.2020**

The applicant is an undertrial in case FIR No. 90/2019 registered under sections 376-D/354-D/328/506/34 IPC at PS: IP Estate and has been in judicial custody since 27.07.2019.

2. By way of this application, the applicant seeks interim bail on the ground that his mother, who is also a heart patient, is suffering from chronic kidney disease stage-5 and is presently on haemodialysis. It is averred that the applicant's mother has also tested positive for COVID-19, due to which she has been shifted to the Max Smart Saket Hospital, New Delhi on 09.06.2020, which is meant for COVID-19 patients who are serious. Furthermore, it is stated that the applicant's father had passed away and the mother used to stay with his sister, who has also developed symptoms of COVID-19 and has been referred for testing.

3. Ms. Kirty Agarwal, learned counsel for the applicant states that in the circumstances, when the applicant's mother is admitted to hospital for kidney failure and is also suffering from COVID-19; and the sister, who is the only other immediate family member, has also developed symptoms of COVID-19, it falls upon the applicant alone to take care of his family, for which he may be granted interim bail.
4. Status report filed in the matter is not forthcoming on record. However Ms. Neelam Sharma, learned APP has forwarded a copy of status report dated 'nil' *via* email, which has been perused. Let the status report be brought on record.
5. The status report records that the mother's medical condition has been verified ; and that the hospital has confirmed that the patient is on haemodialysis and has been admitted to Max Smart Saket Hospital, since she is also COVID-19 positive. Although in one of the medical documents it is said that no male attendant is required for the patient, in a certificate dated 23.05.2020 issued by a Consultant Nephrologist, the doctor states that they recommend one attendant, either male or female, to take care of the patient's needs. It is further recorded in the status report that the applicant's neighbour has confirmed that the mother was living only with her daughter, since her husband had passed away in 2019 and there is no male member available in the household.
6. Although the nominal roll has not been received from the Jail Superintendent, Ms. Sharma, has also forwarded a copy of the same *via* e-mail. Let a copy of the nominal roll be placed on record.

7. Nominal roll dated 24.06.2020 shows that the applicant has spent about 10 months in prison as an undertrial; that his jail conduct is 'satisfactory'; that the applicant was granted interim bail twice before, in December 2019 and January 2020; and that there is no record of the applicant's prior or other criminal involvement.
8. Ms. Agarwal also submits that two other co-accused in the matter, namely Raj Kumar and Bhaskar Sharma have been granted interim bail by the High Court *vidé* orders dated 08.05.2020 and 18.06.2020.
9. On being queried, Ms. Agarwal states that the applicant lives in Fatehpur Beri in South Delhi which is at quite a distance from where the complainant/prosecutrix resides *i.e.* Paschim Vihar in West Delhi. She also offers that if granted interim bail, the applicant shall not visit the locality where the complainant/prosecutrix resides.
10. Considering that the applicant's mother appears to be a heart patient who also suffers from kidney failure and has now been struck by COVID-19 and is hospitalised ; that his sister, being the only other immediate family member, is also being tested for COVID-19 ; that the applicant's prison conduct is satisfactory ; and that two other co-accused have been granted interim bail, this court is persuaded to grant to the applicant *interim* bail for a period of 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 local surety in the like amount, 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 present himself before the Investigating Officer/SHO PS: I.P. Estate every Saturday between 11 am and 11:30 am to mark his presence. However, the applicant shall not be kept waiting at the police station for more 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 surrender it to the Jail Superintendent;
 - (f) The applicant will not visit the locality of Paschim Vihar nor offer any inducement, threat or promise to the first informant/ complainant or to any of the prosecution witnesses; nor contact any of the co-accused persons. 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 duly surrender before the concerned Jail Superintendent.
11. Nothing in this order shall be construed as an expression on the merit of the pending matter.
12. The application stands disposed of.
13. A copy of this order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

JUNE 25, 2020/uj