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

+ **BAIL APPL. 1485/2020**

ABHAY

..... Petitioner/Applicant
Through: Mr. J. K. Sharma, Advocate.

Versus

THE STATE OF N.C.T. OF DELHI

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

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **19.08.2020**

The applicant, who is an undertrial in case FIR No.02/2019 registered under sections 387/506/120-B/34 IPC at PS: Alipur, seeks bail.

2. As per the statement made by Mr. J.K. Sharma, learned counsel for the applicant on 20.07.2020, the present application is being considered as one only for interim bail.

3. Pursuant to the last order, a fresh status report dated 18.08.2020 has been filed addressing the interim bail plea.

4. Nominal roll dated 16.07.2020 has also been received from the Jail Superintendent.

5. Mr. J.K. Sharma points-out that the nominal roll filed is inaccurate, inasmuch as it shows that the applicant is in judicial custody in case FIR No.14/2019 registered under sections

307/506/120-B IPC read with section 25/27 of the Arms Act 1959 at PS: Alipur, which is incorrect, as evidenced by order dated 10.06.2020 made by the learned Sessions Court in Bail Appl. No.1694/2020, whereby the applicant has already been granted interim bail for 45 days in the said case, which order the applicant has not been able to avail since he is in custody in the present case.

6. Apart therefrom, Mr. Sharma contends that the applicant's case is squarely covered by the recommendations contained in Minutes of Meeting dated 28.03.2020 of the High Powered Committee appointed pursuant to directions issued by the Supreme Court in *suo motu* proceedings in W.P.(C) No.01/2020 titled ***In Re: Contagion of COVID-19***, whereby the High Powered Committee has *inter-alia* recommended the following categories of undertrial prisoners to be considered for grant of interim bail:

“Under trial prisoners (UTPs) who are facing trial in a case which prescribes a maximum sentence of 7 years or less ; or

(ii) Even If, the UTP has more than one case and in all other cases, he is “on bail”, except the one for which he is being considered and the same prescribes punishment for 7 years or less ; and if

(iii) UTP is in custody for a period of one month or more ;

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7. It is submitted that in the present case, as borne-out from the nominal roll, the applicant has been in judicial custody as undertrial for more than 01 year and 05 months as of 16.07.2020; and is on bail in the other case referred to above. The applicant is also charged with offences with maximum punishment of less than 7 years.

8. Relying on status report dated 18.08.2020, Ms. Neelam Sharma, learned APP for the State opposes grant of bail on two principal grounds : *firstly*, that the recommendations of the High Powered Committee are not mandatory or binding upon the court; and *secondly*, that the applicant is facing trial under sections 307/506/120B IPC read with sections 25/27 Arms Act in the other FIR.

9. However, upon a conspectus of the facts and circumstances of this case, 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 surety in 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 this application;

(c) The applicant shall present himself before the Investigating Officer every Monday between 11 a.m. and 11:30 a.m. to mark his presence; and if the Investigating Officer is not available, then before the SHO, PS : Alipur. However, 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 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.

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

11. The bail application stands disposed of.

12. Other pending applications, if any, also stand disposed of.

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

ANUP JAIRAM BHAMBHANI, J.

AUGUST 19, 2020

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