

\$~19

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

+ BAIL APPL. 1488/2020

MS. SHARON PHOCUM Petitioner/Applicant
Through: Mr. Yogesh Saxena, Advocate.

versus

NARCOTICS CONTROL BUREAU Respondent
Through: Mr. Subhash Bansal, Senior Standing
Counsel with Mr. Shashwat Bansal,
Advocate.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **07.08.2020**

The applicant, who is an undertrial in case SC No.8801/2016 registered by the Narcotics Control Bureau (NCB) under sections 21/23/29 of the NDPS Act 1985 at PS: NCB, seeks interim bail on the ground that her father, aged about 63 years requires prostrate surgery; that the father is separated from the mother; that the applicant's husband has also left her; and that the applicant has a minor son, aged about 07 years, who stays with her father, who also needs to be looked-after while the father undergoes surgery.

2. Status report dated 27.07.2020 has been filed by the NCB.

3. Nominal roll dated 23.07.2020 has also been received.
4. The status report verifies the medical documentation in support of the father's illness, recording that while the doctors at Grace Hospital have verified that the medical papers are genuine; and the doctors at Mata Roop Rani Maggo & Mahindru Hospital have said that while they have issued the medical prescriptions/certificates on the father's request, these were issued to help the father get funding from an NGO for the purpose of surgery.
5. Mr. Subhash Bansal, learned counsel appearing for the NCB points-out that in response dated 24.07.2020 given by the Mata Roop Rani Maggo & Mahindru Hospital to a verification questionnaire dated 23.07.2020 issued by the NCB, the hospital has said that while they have issued the medical documents to help the father get funding, they "were not aware that these documents will be misused"; however, in the same response, the hospital does confirm that the father was advised surgery for enlarged prostate, but they say that the surgery is not urgent and the disease is not life-threatening.
6. The status report recites the details of the alleged offence but does not dispute the applicant's family situation and the medical condition of the father. The nominal roll records that the applicant, who is a 28-year old lady, has been in judicial custody for last more than 06 years as an undertrial but says that her jail conduct is "not good". The prison offences appear to be essentially of misbehaviour with jail staff and quarrels with other inmates. The nominal roll does not disclose any other

or prior involvement in any criminal case. It also shows that the applicant has never availed any interim bail or other relief till now.

7. Evidence in the matter is stated to have been completed. Statement of accused person is to be recorded, which however got deferred due to restricted functioning of courts due to the prevailing coronavirus pandemic.

8. Upon a conspectus of the facts and circumstances, especially the medical exigencies of the applicant's father and her need to look-after her minor son, with no other family member being available to do so, this court is persuaded to grant to the applicant *interim bail* for a period of 45 (forty-five) days from the date of her release, subject to the following conditions:

- (i) 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;
- (j) 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;
- (k) The applicant shall present herself before the concerned officer of NCB on every Wednesday between 11 a.m. and 11:30 a.m. to mark her presence, However, she will not be kept waiting for longer than one hour for this purpose;
- (l) The applicant shall furnish to the concerned officer of NCB 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;

- (m) If the applicant has a passport, she shall also surrender the same to the Jail Superintendent;
 - (n) 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;
 - (o) Upon expiry of the period of interim bail, the applicant shall surrender before the concerned Jail Superintendent.
9. Nothing in this order shall be construed as an expression on the merits of the pending matter.
10. The bail application stands disposed of.
11. Other pending applications, if any, also stand disposed of.
12. A copy of this order be sent to the concerned Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J

AUGUST 07, 2020

Ne