

via Video-conferencing

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

+ BAIL APPL. 1739/2020

AFROZ KHAN @ CHIDDAPetitioner/Applicant.

Through : Ms. Jyoti Gupta, Advocate.

versus

STATE

..... Respondent

Through : Mr. Tarang Srivastava, APP for
State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **27.07.2020**

The applicant, who is an undertrial in case FIR No. 187/2017 registered under sections 302/452/120B/34 IPC read with sections 27/54/59 of the Arms Act at PS : Malviya Nagar, Delhi, seeks interim bail based on the recommendations of the High Powered Committee (HPC) appointed by the Delhi High Court pursuant to directions issued by the Supreme Court in *suo motu* proceedings in Writ Petition (C) No. 01/2020.

2. Ms. Jyoti Gupta, learned counsel appearing for the applicant submits that the applicant falls squarely within the guidelines and recommendations of the High Powered Committee, as recorded in its Minutes of Meeting dated 18.05.2020, inasmuch as the applicant is

accused of an offence under section 302 IPC; but has been in judicial custody for more than 03 years; and has no involvement in any other criminal case.

3. Counsel points-out that the HPC recommendations dated 18.05.2020 arose *inter-alia* from a letter dated 16.05.2020 addressed by the Director General (Prisons), Delhi, requesting the HPC that the criteria adopted earlier needed to be relaxed so as to further decongest the jails as the present occupancy of the jails still exceeds the optimum capacity.

4. Counsel submits that on a meaningful reading of the recommendations, there is no reason why the benefit of the relaxed criteria should not be given to the applicant.

5. Status report dated 27.07.2020 has been filed.

6. Nominal report dated 24.07.2020 has also been received from the Jail Superintendent.

7. Relying upon the status report, Mr. Tarang Srivastava, learned APP for the State opposes grant of interim bail submitting that the offence for which the applicant is facing trial is grave and serious. However, Mr. Srivastava concedes that the applicant was not the person who shot the deceased; and also that, as borne-out by the nominal roll, the applicant has no other criminal involvement and that his jail conduct is also 'satisfactory'.

8. The nominal roll confirms that the applicant has spent about 03 years and 02 months in judicial custody.

9. Upon an overall conspectus of the facts and circumstances, this court see no discernible reason why the benefit of the HPC

recommendations dated 18.05.2020 should not be given to the applicant. Accordingly, 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.30,000/- 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 on every Friday 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 : Malviya Nagar. 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.

JULY 27, 2020

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