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via Video-conferencing

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPL. 1778/2020**

NEERAJ SEHRAWAT Applicant
Through: Mr. Vishal Gosain, Adv.

versus

STATE Respondent
Through: Mr. Amit Chadha, APP for the State
with Inspector Ravinder Tyagi, PS:
Special Cell.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
% **23.07.2020**

The applicant, who is an undertrial in case arising from FIR No. 10/2015 dated 23.02.2015 registered under sections 3 and 4 of Maharashtra Control of Organized Crime Act 1999 at PS : Special Cell, New Delhi, had sought interim bail, or in the alternative custody 'parole', on the ground that his wife required to undergo surgery and would also subsequently need post-operative care.

2. Notice in the matter was issued on 17.07.2020. Status report dated 21.07.2020 has been filed. Nominal roll dated 20.07.2020 and medical status report dated 19.06.2020 have been received from the Jail Superintendent. SCRB report dated 20.07.2020 has also been received.
3. The matter has been heard at considerable length.
4. Mr. Vishal Gosain, learned counsel for the applicant has submitted that the applicant's wife has undergone surgery for ovarian cysts on

17.07.2020; that she has since been discharged; but she requires post-operative care, for which the applicant be granted interim bail, or in the alternative, custody parole.

5. Referring to the list of criminal cases cited against him in the status report, Mr. Gosain points-out that it will be seen that in several of these cases the applicant stands acquitted or discharged, while other cases are pending trial at various stages. He submits that the State is misrepresenting the true status of these cases in order only to oppose bail.
6. Mr. Gosain further refers to a Discharge Summary from Fortis Hospital to say that the applicant's wife's surgery was major and that she requires prolonged post-operative care.
7. Mr. Amit Chadha, learned APP appearing for the State opposes the grant of bail on the ground, *firstly*, that an interim bail application on the very same ground has been dismissed by a Co-ordinate Bench of this court *vidé* order dated 24.06.2020 in BAIL APPL. No. 1276/2020.
8. The ground taken for interim bail in BAIL APPL. No.1276/2020 is summarised in Para II (iii) of that application, which reads as under :

“iii) That it is pertinent to mention herein that the petitioner's wife has also developed ovarian cyst and the doctors concerned have opined that if not the petitioner's wife is operated upon immediately, it may cause irreversible damage to her body. It is worthwhile to state that the order dated 12.06.2020 passed by the Ld. ASJ, impugned herein, itself states that the medical reports of the petitioner's wife have been verified from the doctors concerned and are found to be correct. At the cost of repetition, it is further pertinent to mention that the doctors

concerned have opined the surgery to be performed on 22.06.2020, whereafter the petitioner's wife shall be kept under observation for 72 hours. As per the doctor concerned, the petitioner's wife also requires post operative care and treatment, which further necessitates the presence of the petitioner with his ailing wife."

9. The prayer in that bail application is reproduced below :

"a) Pass appropriate directions/order to grant interim bail for a period of 30 days to the petitioner in FIR bearing no. 10/2015 dated 23.02.2015 registered U/s 34 of MCOC Act at P.S.- Special Cell, in the interest of justice."

10. Secondly, Mr. Chadha contends that at the hearing of the aforesaid matter on 24.06.2020, the alternate prayer of 'custody parole' was also made and was declined. Mr. Chadha submits that he was present at the hearing and this issue was raised, considered and rejected. It is further pointed-out that the issue of post-operative care was also specifically raised in the earlier bail application and therefore stood rejected.
11. Annexure-A to the applicant's nominal roll shows a list of 14 cases in which he was implicated. It further records that his overall jail conduct is 'unsatisfactory' and encloses a list of 21 punishments awarded to him for various prison offences, the latest being punishments dated 20.03.2020 and 09.05.2020 for which judicial appraisal is still awaited. The nominal roll further records that no labour is allotted to the applicant in prison since he is held as a High Security Ward Prisoner.

12. The SCRB report lists 18 cases in which the applicant is/was implicated.
13. In view of the foregoing, especially the fact that an interim bail application on the very same ground as cited in the present application was rejected as recently as on 24.06.2020, the State strongly opposes the grant of interim bail.
14. Considering the overall record of the applicant as discussed above, and especially in view of order dated 24.06.2020, whereby his interim bail application on the very same ground stands rejected, there is absolutely no merit in the present application, which is a clear and evident case of misuse and abuse of the process of this court and of the beneficent provisions of law.
15. The present application is accordingly rejected.

ANUP JAIRAM BHAMBHANI, J.

JULY 23, 2020

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