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

+ **BAIL APPL. 1837/2020**

ANITA

.....Applicant

Through: Ms. Sweety Chauhan & Mr. Anuj
Chauhan, Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Raghuvinder Varma, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **15.09.2020**

The applicant, who is an accused in case FIR No. 295/2018 dated 28.09.2018 registered under sections 302/201/120B/34 IPC at PS : Dwarka North, Delhi, seeks interim bail on the ground that she has a 13 year old boy who requires her presence in the present times of the prevailing coronavirus pandemic.

2. Notice in this application was issued on 22.07.2020; consequent whereupon status report dated 05.08.2020 was filed; and nominal rolls dated 06.08.2020 and 17.08.2020 have been received from the Jail Superintendent.

3. Since there was a doubt as to the address where the applicant would reside if enlarged on interim bail, Ms. Sweety Chauhan, learned counsel for the applicant was directed to confirm the address at which the applicant would reside alongwith her family. Ms. Chauhan had confirmed that the address given in the prison records and in the present application was the correct address; and accordingly, re-verification of the address was directed.
4. However, even upon re-verification, supplementary status report dated 13.09.2020 says that the Jain Park, Uttam Nagar address is not the correct address inasmuch as the owner of the property has said that the applicant's family has not been residing there since the last 1-1/2 years. However, the status report records that the applicant's husband Rajesh Kumar was contacted, who has said that he had left the said address and is now residing at Plot No. 53 & 54, Ground Floor, Khushi Ram Park, Delhi on rent, alongwith his mother and son for the last about year-and-a-half.
5. Nominal rolls dated 06.08.2020 and 17.08.2020 show that the applicant has been in judicial custody for about 01 and 10 months as of August 2020; and conduct certificate dated 06.08.2020 filed by the Jail Superintendent records that the applicant's jail conduct is 'Good'.
6. Ms. Chauhan, submits that, as is evident from the status report, the applicant's son aged about 13 years is being looked after only by her mother-in-law, aged about 62 years, since her husband goes to work during the day. Counsel submits that the presence of the mother, at least for some time, is necessary to look after the young boy, especially in the present times of the prevailing coronavirus pandemic.

7. Opposing the grant of interim bail, Mr. Raghuvinder Varma, learned APP for the State submits that it is evident that the applicant furnished an outdated address; and even the husband, as *paikar*, furnished a wrong address in the affidavit in support of the Bail Application. Learned APP submits that the correct address could only be discovered by the efforts of the Investigating Officer.
8. It is noticed, that other things apart, the applicant is only 01 month short of the 02 year period of incarceration, which is one of the criteria suggested in Minutes of Meeting dated 18.05.2020 of the High Powered Committee appointed by the Delhi High Court, for grant of interim bail to undertrial prisoners facing a case under section 302 IPC; the other condition being that there should be no other criminal case pending against such person.
9. Since the applicant has already been in judicial custody for about 01 year and 11 months as of date; she has no other criminal case pending against her; and her jail conduct is 'good'; and the applicant has a young child to look after, 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 :
 - a. The applicant shall furnish a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousands) with 01 surety in the like amount from her husband, 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 status report dated 13.09.2020 as verified by the I.O.;

- c. The applicant shall furnish to the I.O./S.H.O., 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;
 - d. The applicant shall present herself before the I.O./S.H.O. on every *alternate* Friday between 11 am and 11:30 am to mark her presence. However, she will not be kept waiting for longer than one hour for this purpose;
 - e. If the applicant has a passport, she shall 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 is disposed of in above terms.
 - 12. Other pending applications, if any, also stand disposed of.
 - 13. A copy of the order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

SEPTEMBER 15, 2020/uj