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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1594/2020**

MARTIN@ OBUM@ FEVOR
(IN JUDICIAL CUSTODY)

..... Petitioner

Through: Mr.Ajay Verma, Advocate.
versus

STATE

..... Respondent

Through: Ms.Rajni Gupta, APP for the State
with SI Ranjeet Singh, Special Cell in
person.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **09.09.2020**

1. The hearing has been conducted through Video Conferencing.
2. The applicant was admitted on bail by the learned trial court on 13.12.2018. On 29.04.2019 he could not appear before the Court and moved an exemption application which was allowed. However, on 29.05.2019 again he did not appear and NBWs were issued. Thereafter, on 03.11.2019 he was arrested and as such he is in custody since then.
3. The petitioner herein moved bail applications before the learned trial court but the said applications were dismissed on 02.03.2020, 18.04.2020 and 15.07.2020. Prayer *a* in petition is qua setting aside of the order dated 29.05.2019 but since the applicant was arrested on 23.11.2019 such prayer has become infructuous.
4. The prayer *b* is qua setting aside of the orders dated 02.03.2020, 18.04.2020 and 15.07.2020. The grievance of the petitioner is even if the condition of the bail was inadvertently violated by him due to some genuine reason, the petitioner cannot be asked as a matter of fact to undergo entire

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punishment during the trial.

5. It is submitted by learned counsel for the petitioner had changed his residence after 29.05.2019 and that his child was seriously ill having a hole in his heart.

6. The prosecution was directed to verify these facts. The learned prosecutor submits that the child was having a small hole in his heart have been verified and it is found to be true, though the child is normal now and no surgery was ever performed.

7. Nevertheless one thing the learned prosecutor would agree is the bail was granted to the applicant on 13.12.2018 though in *commercial quantity* it ought not to have been granted. However, the learned counsel for the petitioner has challenged the orders dated 02.03.2020, 18.04.2020 and 15.07.2020 declining the bail on the submissions made above.

8. I am of the considered view that if the applicant could not appear in the Court on two dates and is in custody since 23.11.2019 then he has suffered sufficient punishment for violating condition of bail dated 13.12.2018. He is in custody for the last about 10 months for such lapse on his part and as such he deserves bail. Hence the order dated 22.07.2019 of declining the bail to the petitioner herein is set aside. The petitioner is readmitted to bail on his executing a personal bond of Rs.1.00 lac to the satisfaction of the Jail Superintendent/ Duty MM/Trial Court. The surety of the like amount shall be furnished by the petitioner within a week of the learned Trial Court resuming its normal functioning.

9. The applicant being a foreign national shall report before the SHO/IO

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concerned of Special Cell on the first Monday of every month at 10 AM and any change of residence shall be intimated to the IO concerned. The petitioner is also directed to provide his contact number/address to the SHO of police station Special Cell, New Delhi as also he shall keep open his location application in his mobile at all time.

10. Needless to say the order of bail to petitioner is without any prejudice to the action taken by the learned Trial Court against the previous surety of petitioner.

11. The petition stands disposed of in above terms.

12. Copy of this order be sent electronically to the learned Trial Court/ Duty MM for information and compliance.

YOGESH KHANNA, J.

SEPTEMBER 09, 2020

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