

via Video-conferencing

\$~16

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

+ **BAIL APPL. 1904/2020**

MANNAN @ RIZWAN

.....Petitioner/Applicant.

Through : Mr. Asghar Khan, Mr.Najmi
Khan, Mr.Abdul Tahir Khan
and Mr. Sandeep Arora,
Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through : Ms. Neelam Sharma, APP for
the State.
Mother of the complainant/
prosecutrix in-person along
with I.O./W/S.I. Madhuri.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

%

10.09.2020

The applicant, who is an undertrial in case FIR No. 127/2017 dated 17.02.2017 registered under sections 363/366A/34/376D of IPC and section 6 of POCSO Act at P.S.: Jaitpur, Delhi, seeks interim bail on the ground that his mother is suffering from gallstones and requires immediate surgery.

2. Notice in this application was issued on 27.07.2020

3. Status reports dated 17.08.2020, 02.09.2020 and 09.09.2020 have been filed.

4. Nominal roll dated 11.08.2020 has also been received from the Jail Superintendent.
5. Intimation in compliance of section 439(1A) Cr.P.C. and the Delhi High Court Practice Direction dated 24.09.2019 was sent to the complainant/prosecutrix by the Investigating Officer in form *Annexure 'A'* to the practice directions. In response, the complaint/prosecutrix's mother has joined the video-conference hearing in presence of the I.O./W/Sub-Inspector Madhuri.
6. Mr. Asghar Khan, learned counsel for the applicant submits that as evidenced from the nominal roll, the applicant has been in judicial custody as an undertrial since 18.02.2017 i.e. for about 3½ years; that his jail conduct is 'satisfactory' ; and that he has no other criminal case pending against him.
7. Mr. Khan further points-out that of the other two co-accused, one Imran is already on regular bail; and the other Mustakeen was granted interim bail, upon expiry of which he has surrendered to judicial custody.
8. Mr. Khan also submits that the applicant's family comprises his aged mother, his wife and a 3½ years old child; his father having expired earlier-on. He further submits that in status report dated 02.09.2020, the factum of surgery of the applicant's mother being scheduled for 12.09.2020 has been verified.
9. While not disputing that the mother's surgery is scheduled on 12.09.2020, relying upon the status reports filed, Ms. Neelam Sharma, learned APP for the State opposes grant of bail on the ground that the offences alleged are heinous; that the complainant/prosecutrix has not

been examined yet; and that the applicant is a resident of District Sambhal, Uttar Pradesh and is a serious flight risk.

10. Upon instructions from the Investigating Officer however, Ms. Sharma confirms, that there is no other male member in the family which comprises only the aged mother, the wife and a very young child.

11. Upon a conspectus of the circumstances, and *only* for the reason that the applicant's mother requires urgent surgery and there is no other family member to attend to that, this court is persuaded to grant to the applicant *interim bail* for a period of 15 (fifteen) 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. 25,000/- (Rupees Twenty-five Thousand) with 01 surety in the like amount, *as offered on behalf of the applicant*, from Mr. Tahir s/o Mr. Shahid, who is stated to be the applicant's maternal uncle based in Delhi, to the satisfaction of the Jail Superintendent. The surety will *also* place the original title deeds of a property he is stated to own in Delhi with the Jail Superintendent as additional surety, after the I.O. verifies the genuineness of the such title deeds;
- (b) The applicant shall not leave District Sambhal, Uttar Pradesh without permission of the court and shall *ordinarily* reside at the address mentioned in this application, except to travel to and from prison in Delhi;
- (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 himself before the S.H.O, P.S.: Gunnaur, District Sambhal, U.P. every Wednesday between 11 am and 11:30 am to mark his presence. However he will not be kept waiting for longer than one hour for this purpose;
 - (e) The applicant shall also furnish to the I.O., medical documentations in evidence of the treatment that his mother undergoes during the period of interim bail;
 - (f) If the applicant has a passport, he shall also surrender the same to the Jail Superintendent;
 - (g) 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;
 - (h) Upon expiry of the period of interim bail, the applicant shall surrender before the concerned Jail Superintendent.
12. Nothing in this order shall be construed as an expression on the merits of the pending trial.
13. The bail application is disposed of in above terms.
14. Other pending applications, if any, also stand disposed of.
15. A copy of this order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

SEPTEMBER 10, 2020

j