

\$~8 (appellate side)

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

+ **BAIL APPL. 2011/2020**

RAHUL KUMAR

..... Appellant

Through: Ms. Manika Tripathy Pandey,
Adv.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms. Kusum Dhalla, APP for
State

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

%

11.08.2020

(Video-Conferencing)

1. This is an application for interim bail.
2. The applicant is under custody, facing trial consequent to FIR No. 208/2016, dated 14th September, 2016, registered at PS Defence Colony, New Delhi, accusing him of committing offences under Sections 302/397/411/34 of the IPC.
3. Given the exigencies resulting consequent to the COVID-2019 pandemic, and the necessity of decongesting prisons, a High Powered Committee, under the chairpersonship of a sitting Judge of this Court, had met on 18th May, 2020. The minutes of the meeting of the said Committee, resolved, *inter alia*, that prisoners falling in the following

criteria could be considered for grant of interim bail for 45 days, on personal bond:

- “(i) Under trial prisoners (UTPs) facing trial for a case under Section 302 IPC and are in jail for more than two years with no involvement in any other case;
- (ii) Under trial prisoners (UTPs) facing trial for offence under Section 304 IPC and are in jail for more than one year with no involvement in any other case;
- (iii) Under trial prisoners (UTPs) facing trial in a case under Section 307 or 308 IPC and are in jail for more than six months with no involvement in any other case;
- (iv) Under trial prisoners (UTPs) facing trial/remand prisoners in Theft cases and are in jail for more than 15 days;
- (v) Male Under trial prisoners (above 65 years of age) facing trial in a case except the ones excluded hereunder and are in jail for more than six months with no involvement in any other case;
- (vi) Female Under trial prisoners (above 60 years of age) facing trial in a case except the ones excluded hereunder and are in jail for more than six months with no involvement in any other case;”

4. The following categories of under trial prisoners, it was further recommended, would not be considered for such grant of interim bail:

- “(i) Those inmates who are undergoing trial for intermediary/ large quantity recovery under NDPS Act;
- (ii) Those under trial prisoners who are facing trial under Section 4 & 6 of POCSO Act;
- (iii) Those under trial prisoners who are facing trial for offences under section 376, 376A, 376B, 376C, 376D and 376E and Acid Attack;
- (iv) Those UTPs who are foreign nationals;

(v) Those under trial prisoners who are facing trial under Prevention of Corruption Act (PC Act) / PMLA, MCOCA;

and

(vi) Cases investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, Terror related Cases, Riot cases, cases under Anti-National Activities and Unlawful Activities (Prevention) Act etc.”

5. Ms. Kusum Dhalla, learned APP for the State, does not dispute the fact that the petitioner falls under category (i) of the categories of under trial prisoners who could be considered for grant of interim bail, as he is facing trial for a case under Section 302 IPC, and has been in custody for over two years with no involvement in any other case.

6. She also acknowledges that this case does not fall within one of the excepted categories (i) to (vi).

7. The High Powered Committee recommendations also maintains that the applications for interim bail of under trial prisoners, falling in the above categories, be considered subject to their possessing a certificate of good conduct during their respective periods of custody by the Jail Superintendent.

8. The applicant satisfies this criterion, as the nominal roll, furnished by the Jail Superintendent, reveals that his conduct, during the last one year, has been satisfactory.

9. The operation of the aforesaid recommendations of the High Powered Committee has been extended, subsequently, *vide* order

dated 4th August, 2020, passed by the Full Bench of this Court in WP(C) 3080/2020 (*Court on its Own Motion v. GNCTD*)

10. Ms. Kusum Dhalla, learned APP, submits that the recommendations of the High Powered Committee are, at the end of the day, mere recommendations, and that every case ought to be seen on its own facts. She emphasises the seriousness of the allegations against the applicant and prays, therefore, that the application for interim bail be rejected.

11. During the currency of the present COVID-2019 pandemic, this Court has, as a matter of practice and in the absence of any exceptional reasons justifying departure therefrom, been extending the benefit of interim bail for 45 days, to undertrial prisoners satisfying the aforesaid criteria, as laid down by the minutes of the High Powered Committee.

12. There is no reason why the present applicant should be extended any different treatment.

13. In view thereof, following the practice and precedents of this Court, the petitioner is released on interim bail for a period of 45 days, subject to his furnishing a personal bond for a sum of ₹ 10,000/- to the concerned Jail Superintendent, subject to the following conditions:

- (i) The petitioner will regularly appear on each and every date of hearing as may be fixed by the learned Trial Court.

(ii) The petitioner shall keep the Investigating Officer Inspector Arvind, Police Station I.P. Estate (Mob. 9717288003) informed about his whereabouts every Friday through SMS or telephone call.

(iii) The petitioner shall also make available, to the Jail Superintendent, prior to his release, the mobile number of at least one person, who could be contacted, should the need arise. The said mobile number would remain active during the period of the petitioner's interim bail.

14. The application is allowed in the aforesaid terms.

AUGUST 11, 2020
dsm

C. HARI SHANKAR, J.

न्यायमेव जयते