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

+ **BAIL APPLN. 2211/2020**

JASMEET SINGH alias GINNI Petitioner

Through: **Mr. Vikas, Adv.**

versus

STATE Respondent

Through: **Mr. M.S. Oberoi, APP for State**

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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

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28.08.2020

(Video-Conferencing)

1. This is an application for interim bail, and is premised on the minutes, of the High Powered Committee (hereinafter referred to as “the HPC”), constituted by this Court, convened on 18th May, 2020.

2. In the interest of de-congestion of jails, so as to avoid the spread of the COVID-2019 virus, it has been recommended in the said minutes, regarding the grant of interim bail to under trial prisoners, thus:

“The Members of the Committee discussed the report submitted by DG (Prisons) vide his letter dated 16.05.2020 and resolved that prisoners falling in following criteria may now be considered for grant of interim bail for 45 days in view of the circumstances in which we are in, preferably 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;”

3. The minutes further exclude certain categories of under-trial prisoners from being considered for interim bail, recommending, in that regard, thus:

“It has further been resolved that following category of UTPs, even if falling in the above criterion or the criteria adopted in the earlier Meetings, should not be considered :-

(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.”

4. It is further recommended, in the said minutes, that applications for interim bail, of under-trial prisoners, falling in the aforesaid eligible categories, in order to be considered for the grant of interim bail, should have a certificate of good conduct during their period of custody, from the Jail Superintendent.

5. There is no dispute about the fact that the present applicant is facing trial only for having allegedly committed an offence, relatable to Sections 302/120B/201/34 IPC. He is not facing trial for having committed any other offence; neither has any other FIR been registered against him.

6. The applicant has been in custody, except for the period from 25th October, 2019 to 7th December, 2019, when he was granted interim bail for undergoing a medical procedure.

7. The nominal roll of the applicant has been requisitioned from the Jail Superintendent, and the conduct of the applicant, during custody, is reflected as “satisfactory”.

8. A status report, in response to the present application, has been filed by the SHO, P.S. Khyala. There is no averment, in the said status report, on the basis of which the case of the applicant could be excluded from the ambit of the guidelines of the HPC, as drawn up in the minutes dated 18th May, 2020 (*supra*). The status report essentially seeks to press the case of the prosecution on merits.

9. The status report also relies on an order, dated 31st May, 2020, passed by a Coordinate Bench of this Court, in Bail Appl. 1139/2020 (*Karandeep Singh v. State*). It is stated that, Karandeep Singh was a co-accused in the FIR in which the applicant had been arraigned as an accused and that he had also sought interim bail, by invoking the HPC guidelines, but that, as the court was not inclined to rule in his favour, he withdrew the bail application.

10. The order dated 8th July, 2020, passed by this Court, in *Karandeep Singh (supra)*, reads thus:

- “1. The hearing has been conducted through Video Conferencing.
2. After some arguments, learned counsel for the petitioner seeks leave to withdraw this petition.
3. Leave granted. Petition is dismissed as withdrawn.
4. Order be uploaded on the website of this Court.”

11. It is apparent, from the reading of the aforesaid order, that there is no reflection thereon, of any opinion having been expressed, even

prima facie, by the court, regarding the merits of the bail application filed by Karandeep Singh.

12. As such, the order cannot be treated as a precedent, to oppose the request of the present applicant. Consequently, the reliance, by the State, on the said order, to oppose the prayer of the present applicant has, therefore, to be treated as misconceived.

13. This Court has, in several matters including Bail Appl. 1142/2020 (*Behruddin vs State*), Bail Appl. 1151/2020 (*Dr. Sudhir Bajaj vs State*), Bail Appl. 1616/2020 (*Pankaj Sharma vs State*), Bail Appl. 2011/2020 (*Rahul Kumar vs State*), and Bail Appl. 2043/2020 (*Mohsin Khan vs State*), amongst others, been following the HPC guidelines and, where under-trial prisoners have fulfilled the requirements whereof, been extending them the benefits of the said guidelines. These orders, apparently, continue to hold the field, and have been implemented.

14. It would be completely unfair and unconscionable on the part of this Court, to discriminate, *qua* the present applicant, without just ground.

15. Given the fact that the conduct of the present applicant during incarceration has been satisfactory and, as there is no convincing material, to which the status report filed by the SHO alludes, as would justify non-extension, to the applicant, of the benefits of the HPC guidelines dated 18th May, 2020, I deem it appropriate to grant the

benefit thereof to the applicant.

16. Inasmuch as the applicant fulfils the requirements for the grant of interim bail, as set out in the aforesaid HPC guidelines, the present application is allowed.

17. The applicant is directed to be released on interim bail for a period of 45 days, subject to the applicant furnishing a personal bond with security of ₹ 10,000/- to the satisfaction of the Jail Superintendent.

18. The applicant shall also furnish the mobile number of at least two responsible individuals who could be contacted by the investigating authorities, or the police authorities, at all times, should the occasion arise. These mobile numbers should belong to persons who are available in the vicinity of the applicant and who are staying at Delhi and the numbers should be kept active during the period of interim bail.

19. The applicant is also restrained from leaving the territory of Delhi, during the period of interim bail, without the permission of this Court, or the learned trial court.

20. The applicant should also ensure that he conducts himself with all due propriety during the period of his interim bail and does not seek to establish contact with any of the witnesses, who have been cited by the prosecution as witnesses before the learned trial court,

and whose evidence remains to be recorded. No attempt to influence the witnesses or hinder the investigation process shall be made by the applicant.

21. The police authorities are also at liberty to visit the applicant's premises, at all times, and ensure due compliance, by the applicant, with the aforesaid conditions of interim bail.

22. The applicant would also report at P.S. Khyala and mark his attendance, at 11:00 a.m., on every Tuesday and Friday, during the period of his interim bail.

23. Subject to the above conditions, the application for interim bail is allowed.

24. Breach of any of the aforesaid conditions would result, *ipso facto*, in this order ceasing to operate, and the applicant becoming liable to be taken back in custody forthwith.

25. The application stands allowed accordingly.

C. HARI SHANKAR, J.

AUGUST 28, 2020

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