

\$~11

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

+ BAIL APPL. 2252/2020

JITENDER @ JINDUApplicant
Through: Mr. Kanwar Kochhar, Adv.

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent
Through: Mr. G. M. Farooqui, APP for the State

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **16.09.2020**

CRL. M.A. No. 11265-11266/2020

Exemption granted, subject to just exceptions.

The application stands disposed of.

BAIL APPL. No. 2252/2020

The petitioner, who is an under trial in case FIR No. 688/2014 dated 19.11.2014 registered under sections 302/307/120B/34 IPC at P.S.: Delhi Cantt., seeks interim bail on the ground that he requires surgery for varicose veins, a condition which has been verified by the jail doctors.

2. Notice in this application was issued on 20.08.2020, when status report and nominal roll were called. Status report dated 09.09.2020 has been filed along with SCRB record dated 14.07.2020. Nominal roll dated 09.09.2020 has also been received from the Jail Superintendent.

3. Mr. Kanwar Kochhar, learned counsel for the applicant submits that medical status report dated 27.06.2020 received from the Senior Medical Officer, Central Jail, Tihar, records as under:

At present, the inmate is a diagnosed case of Bilateral Lower Limb Varicose Veins with Lumbar Spondylosis with Radiculopathy. He is suffering from pain, swelling, itching, hyper-pigmentation, frequent ulcers at bilateral lower limbs, lower-back pain with radiculopathy, numbness and pain in legs on walking or standing even for short periods affecting routine activities. He has been advised the surgery of Saphenous-Femoral Junction Ligation with Stripping of varicose veins at GTB Hospital in view of symptoms and complications due to blood stagnation in lower limbs secondary to varicose veins. However, his referral to outside hospital including GTB Hospital for surgery cannot be done at present due to prevailing COVID-19 pandemic, restrictions on inmates' movements to outside Hospitals to prevent spread of COVID-19 inside Jail and because GTB Hospital has been designated as Dedicated COVID Hospital.

4. Counsel points-out that in this backdrop, the petitioner/applicant had moved Bail Application No. 1568/2020, which however was disposed of by a Co-ordinate Bench of this court *vidé* order dated 31.07.2020, when the applicant withdrew the bail application with liberty to approach the court for grant of interim bail after obtaining requisite documents from the doctors/hospital where the petitioner proposes to get himself operated.
5. Counsel submits, that consequent thereupon the applicant approached Pushpawati Singhanian Hospital & Research Institute, New Delhi through his wife and a relative, at which institute, without examining the applicant but after examining his medical records Dr. Navin Chobdar advised 'saphenous femoral junction ligation and stripping' which is a surgical procedure, while also advising doppler test of both lower limbs and RT-PCR test for Covid-19 at least 48 hours prior to admission.

6. In the circumstances, Mr. Kochhar submits, that it is clear that the applicant requires surgery and also has been advised certain tests before admission.
7. Along with status report dated 09.09.2020, the State has filed a certificate dated 08.09.2020 issued by the said Dr. Navin Chobdar where, clarifying that he has not examined the applicant, the doctor confirms that based upon the medical records brought by the applicant's relatives, he has suggested surgery *inter alia* after conducting certain tests.
8. However, relying on the status report, Mr. G. M. Farooqui, learned APP for the State opposes grant of interim bail submitting that no date has been fixed for the surgery; that the nominal roll as well as the SCRB record show that the applicant is implicated in 9 criminal cases spanning 2007 to 2014 and that his jail conduct is 'Unsatisfactory' ; and that he was awarded 10 punishments for prison offences between 2016 and 2019.
9. It is noticed that while the SCRB record shows 09 criminal involvements, the nominal roll shows only 03 other FIRs against the applicant, in 02 of which he has been acquitted; and in 01, he is on bail. It is also noticed that the last prison punishment was awarded to the applicant on 25.09.2019, which is almost a year ago.
10. Upon a conspectus of the foregoing facts and circumstances, and *only* for the reason that the medical record shows that the applicant requires surgery for a painful condition, which may worsen otherwise, this Court is persuaded to grant *interim bail* for 45 (forty-five) 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.50,000/- (Rupees Fifty Thousand) with 01 surety in the like amount from a family member, 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 this application;
- (c) The applicant shall furnish to the Investigating Officer/ 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 I.O., and if the I.O. is not available, then before the concerned S.H.O, every Monday between 11 am and 11:30 am to mark his presence, *unless* prevented by medical reasons to do so. However, he will not be kept waiting for longer than one hour for this purpose;
- (e) If the applicant has a passport, he 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) During the period of interim bail, the applicant shall not contact or interact with any of the co-accused in the matter;

- (h) Upon expiry of the interim bail, the applicant shall furnish to the I.O. copies of all records of the medical treatment and procedures that he has undergone during the period of interim bail; and
 - (i) Upon expiry of the period of interim bail, the applicant shall surrender before the concerned Jail Superintendent.
- 11. Nothing in this order shall be construed as an expression on the merits of the pending matter.
- 12. The bail application stands disposed of in the above terms.
- 13. Other pending applications, if any, also stand disposed of.
- 14. A copy of this order be sent to the concerned Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

SEPTEMBER 16, 2020/sr