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

+ **CRL.M.C. 1671/2020 & CrI.M.A. 11327/2020**

PREM CHAND TANWAR

..... Petitioner

Through

Ms.Anu Narula, Adv. with Mr.Aman
Usman, Adv.

versus

STATE & ANR.

..... Respondent

Through

Mr.Izhar Ahmad, APP for State.
Mr.Arun Bhardwaj, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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21.09.2020

The hearing has been conducted through video conferencing.

1. Present petition has been filed under section 482 Cr.P.C. for setting aside order dated 10.08.2020, whereby the NBW against respondent no.2 has been recalled and interim bail has been granted in FIR No.1187/2015 registered at Police Station Hauz Khas for the offences punishable under sections 302/308/201/212/34 IPC.
2. Learned counsel for the petitioner argued that vide order dated 23.06.2020, this Court in Bail Appln.1389/2020 recorded that after perusing order dated 22.06.2020 passed by the Ld. District & Sessions Judge (South), Saket, New Delhi, no further extension of bail is required to be granted to the respondent no.2. Accordingly, he was directed to surrender before the concerned jail on 24.06.2020 by 10 a.m. However, jail authorities were directed that upon surrendering of respondent no.2, they would take care of his medical requirements and in the event surgery is required to be performed, the same shall be undergone at Safdarjung Hospital from where

he is already taking treatment. It was made clear that if surgery of the respondent no.2 was to take place on 10.07.2020 then in that case, he would be released on 08.07.2020 on interim bail for a period of seven days.

3. Learned counsel further submits that respondent no.2, instead of surrendering on 24.06.2020, filed an application before the Division Bench of this Court as an intervenor in W.P.(C) 3037/2020 which was dismissed as withdrawn vide order dated 26.6.20 with liberty to approach the Hon'ble Supreme Court. Further, vide said order respondent no.2 was directed to surrender on 04.07.2020. The said respondent moved an application before the Hon'ble Supreme Court challenging order dated 23.06.2020, however, the same was dismissed as withdrawn. Thereafter, respondent no.2 surrendered on 04.07.2020.

4. Learned counsel further submits that respondent no.2 was released for surgery on 08.07.2020, however, did not surrender on 15.07.2020 i.e on expiry of 7 days as was directed by this Court vide order dated 23.06.2020. This shows the *mala fide* on the part of respondent no.2. On 06.08.2020, sessions court issued NBWs against respondent no.2, but the same was recalled vide order dated 10.08.2020 and benefit of extension was given in view of directions passed by Full Bench of this Court vide order dated 24.07.2020 passed in W.P.(C) 3037/2020 titled as ***Court on its own motion vs. State & Ors*** whereby all interim orders have been extended till 31.8.2020. It is clarified that order of extension of bail/interim bail/parole shall be applicable to all under trials /convicts, who have been enlarged on interim bail or parole, as on date, irrespective of the fact that they were so released on interim bail/parole, before or after 16.03.2020.

5. Learned counsel further submits that in the present case, NBWs were

issued and thereafter the same were recalled by the Trial Court which is illegal and perverse. The said court had no power to recall the same.

6. But the fact remains that respondent no.2 surrendered before the concerned jail on 04.07.2020 and thereafter on 08.07.2020, he was released for surgery.

7. Although it was directed that respondent no.2 would have to surrender after expiry of 7 days period from the date of his release, he did not surrender and NBWs were issued against him. Thereafter, he moved an application before the Trial Court for recalling the NBWs and sought benefit of extension of bail in view of order passed by this court in W.P.(C) 3037/2020 and extended the bail upto 31.08.2020.

8. The clarified situation as on date is, once a person is on bail/interim or parole, he shall continue to remain on bail in view of the full bench orders passed by this court considering the ongoing pandemic situation. In the present case also, since the petitioner did not surrender on 15.07.2020, NBWs were issued but the benefit of various orders passed by this Court, the most recent one being order dated 24.08.2020 in W.P(C) 3037/2020 vide which extension has now been granted till 31.10.2018. The benefit of the same would have to be given to respondent no.2 and only after moving an application and apprising the court that extension would be automatic, accordingly, the Sessions Court recalled the order and extended the interim bail of respondent no.2.

9. In view of above discussion, I find no illegality and perversity in the impugned order dated 10.08.2020.

10. Finding no merit in the present petition, the same is, accordingly, dismissed.

11. Pending application also stands disposed of.
12. The order be uploaded on the website forthwith.

SURESH KUMAR KAIT, J

SEPTEMBER 21, 2020/ab