

\$~2

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

Date of decision: 09th JULY, 2021

IN THE MATTER OF:

+ **BAIL APPLN. 2094/2021**

MUDASSIR HABIB

..... Petitioner

Through Mr. Ashutosh Kumar, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through Ms. Meenakshi Dahiya, APP
Mr. Sourabh Shaoukeen, Advocate for
the complainant.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.(ORAL)

1. This petition under Section 439 Cr.P.C is for grant of interim bail to the petitioner in FIR No. 02/2021, dated 02.01.2021, registered at Police Station Crime Branch, for offences under Section 420,468,471,506,120B and 34 IPC, on the ground of HPC guidelines.
2. The learned counsel for the petitioner states that the petitioner is in custody since 03.03.2021 and is squarely covered under clause II of the HPC guidelines dated 04.05.2021.
3. Notice has been issued on 18.06.2021. Status Report has been filed.
4. Ms. Meenakshi Dahiya, learned APP for the State states that the HPC guidelines dated 04.05.2021 would not be applicable to the petitioner because

he is involved in one more case. She further states that cases investigated by the Crime Branch are excluded from the operation of the HPC guidelines.

5. The learned counsel for the petitioner draws the attention of this Court to the HPC guidelines dated 11.05.2021, the relevant portion reads as under:

"If, the Under Trial Prisoner falling in one of the Eleven criteria laid down by this Committee in the Minutes of Meeting dated 4th May, 2021 and/or in any of the Two criteria laid down today hereinabove, has three or more criminal cases pending against him, then his case shall not be considered for grant of interim bail."

The learned counsel for the petitioner contends that the said resolution squarely covers the petitioner.

6. The learned counsel for the petitioner states that a similar exclusion clause had been made in the earlier HPC guidelines also and when identical objections were raised, this Court, by an order dated 13.08.2020, had rejected those objections and had granted the benefit of HPC guidelines to the petitioner in Mohsin Khan v. State of NCT of Delhi, **MANU/DE/1547/2020**. The learned counsel for the petitioner relies on para 11 and 12 of the said order which reads as under:

"11. In my view, the applicant cannot be denied interim bail on the ground of exception (vi) in the High Powered Committee recommendations dated 18th May, 2020, or as revisited on 20th June, 2020. The category of cases excepted at Serial No. (vi) are "cases investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, Terror related Cases, Riot cases, cases under AntiNational Activities and Unlawful Activities

*(Prevention) Act etc.” I am in agreement with Mr. Lal Singh Thakur, learned Counsel for the applicant that the expression “riot cases”, as employed, is to be read ejusdem generis with the other categories of cases with which it keeps company, i.e. cases investigated by CBI/ED/NIA/Special Cell of Delhi Police, cases investigated by the Crime Branch, cases investigated by the SFIO, Terror related Cases, Riot cases and cases under Anti-National Activities and Unlawful Activities (Prevention) Act. **The use of the concluding “et cetera” supports this view, as it clearly indicates that the categories of cases envisaged as falling under the said head constitute a broad genus. It is obvious that the intention of the High Powered Committee was essentially to except, from the facility of interim bail, cases where there was large scale rioting, as would render them analogous to the other categories of cases, visualised in category (vi) supra, and would not apply to the cases where a group of six to seven persons came together, in a common act of assault, consequent on a sudden altercation, resulting in the death of the person assaulted. Such a case cannot be treated, in my view, as a “riot case”, as envisaged by category (vi) of the excepted categories of cases in the recommendations of the High Powered Committee, though Section 147 may have been invoked against the accused.***

12. Apart from my judgment in Behruddin (supra), a Coordinate Bench of this Court has also granted interim bail, to an accused, against whom Section 147 of the IPC, inter alia, was invoked, in order dated 27th May, 2020 in Bail Application 275/2020 (Mayser v. State)”

(emphasis supplied)

7. The petitioner, therefore, fulfils the requirements of the HPC guidelines

dated 04.05.2021 and 11.05.2021 and is granted interim bail for 90 days from the date of his release on the following conditions:

- a) The petitioner shall furnish a personal bond in the sum of Rs.25,000/- with one surety of the like amount, who should be a relative of the petitioner, to the satisfaction of Jail Superintendent/Duty Magistrate.
 - b) The petitioner shall report to the concerned Police Station on every Monday, Wednesday and Saturday.
 - c) The petitioner is directed to give all his mobile numbers to the Investigating Officer and keep them operational at all times.
 - d) The petitioner is directed to provide his address to the IO and if he changes the address, he shall intimate the same to the IO.
 - e) The petitioner shall not, directly or indirectly, tamper with evidence or try to influence the witnesses.
 - f) The petitioner is directed to surrender on the expiry of the interim bail before the concerned Jail Superintendent.
 - g) Violation of any of these conditions will result in the cancellation of the bail given to the petitioner and will also have a bearing on the future bail applications of the petitioner.
8. The petition is disposed of in the abovementioned terms.
 9. Let a copy of the order be transmitted to the concerned Jail Superintendent.

SUBRAMONIUM PRASAD, J

JULY 09, 2021/Rahul