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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Order pronounced on: 05.05.2022*

+ BAIL APPLN. 1180/2022

RAHUL GUPTA

..... Petitioner

Through: Mr. Deepak Jain, Adv.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Ravi Nayak, APP for the State
(through VC).ACP Raj Bhushan Lakra, PS Punjabi
Bagh, SI Shrikrishna, PS Hari Nagar
& ASI Shiv Lal, PS Hari Nagar.**CORAM:****HON'BLE MR. JUSTICE TALWANT SINGH****TALWANT SINGH, J.**

1. This is an application for grant of interim bail moved in case FIR No. 397/2019 under Sections 3 & 4 of MCOC Act, registered at PS Hari Nagar. It has been submitted on behalf of the applicant/petitioner that the present FIR was registered on 13.08.2019 in which he has been falsely implicated and he is in judicial custody for the last three years.

1.1 Charge-sheet has already been filed and the case is pending trial. Interim bail has been prayed on the ground that the applicant has to arrange the money for admission fee of his three children who are at home due to non-availability of funds for deposit of fees.

1.2 The application for interim bail was dismissed by learned ASJ and thereafter the petitioner/applicant approached this court for interim bail.

2. Notice was issued. Status report has been filed opposing the prayer of the present petitioner.



3. I have heard arguments.

4. As per the status report, it is confirmed that wife of the present petitioner was living with her three children and mother-in-law as tenants in a house in Mahavir Enclave, New Delhi since July, 2015. The wife of the petitioner told the IO that her two sons were studying in a school in Janak Puri in Delhi and they left their school in the year 2018. She further told that she had not applied or filled up any admission form for taking admission of her children in any school and she was willing to get admission of her children in any private school only. She was not interested to get admission in any government school of Delhi due to poor academic facilities. She is managing her household expenses by taking friendly loans and she has no regular source of income.

4.1 Inquiry from the school revealed that both the sons of the present petitioner remained long absentees and they were not attending classes since 2018 and their names have been struck off from the school due to non-payment of school fees.

4.2 The mother of the petitioner is getting old age pension of Rs. 2,000/- per month and she has to spend money on her medical treatment and father of the petitioner stays at his native town in Bihar. The family of the petitioner is not paying rent to the owner of this flat/house since July, 2017 and the said owner is stated to be living in Norway. The flat was taken on rent from the caretaker of the said flat vide a Rent Agreement executed in the name of the wife of the present petitioner and after the expiry of the Rent Agreement, the present petitioner and his wife refused to vacate the premises and threatened the care taker and warned him of dire consequences, if they are asked for rent or to vacate the premises or he makes any complaint.



4.3 It has been further submitted that there were many Government schools situated in Mahavir Enclave, New Delhi and nearby localities. Since 2018 no application had been made to any school for admission of children of petitioner and even till now also no application form has been filled in any school for admission of the children in any school in this academic session. The presence of the petitioner is not required for filling up of any school admission forms or for payment of school fees.

4.4 It has also been mentioned that in November, 2021, the petitioner had sought interim bail on the ground of immediate surgery of his mother Indra Devi, which was scheduled for 15.11.2021 but during verification it was found that the medical prescription dated 08.10.2021 was tampered with and a false date of surgery i.e. 18.11.2021 was inserted/put on the medical documents. The interim bail of the petitioner was dismissed on 16.11.2021.

4.5 The State has also reiterated the contents of the FIR. It has also been submitted that the petitioner is still continuing with unlawful activities from jail in association with another accused Salman Tyagi. The petitioner is stated to be a history sheeter of PS Tilak Nagar and he is found to be involved in 19 criminal cases. The petitioner along with his associates/gang members were trying to prove their supremacy above law.

4.6 The confessional statement of the present petitioner was recorded before DCP, Dwarka District under Section 18 of MCOC Act, where he had confessed to be involved in use of illegal fire-arms, and creating terror among innocent public persons to extort money from them. He is also stated to be forcibly possessing properties in Delhi and neighbouring areas.

4.7 It is also mentioned that the accused Salman Tyagi and the present petitioner had met in Tihar Jail, Delhi, discussed their financial conditions and



then both decided to hatch a conspiracy to extort money and thereafter Salman made a call to Ms. Bhumi and demanded extortion money of Rs. 15 lacs and she had lodged a complaint on 13.07.2021, i.e., during the period when the present petitioner was already lodged in jail. One mobile phone was recovered from cell of Salman Tyagi and another mobile phone was recovered from the cell, where the present petitioner is lodged.

5. Keeping in view, the seriousness of the offences under which the present petitioner has been charged, as well as his conduct while lodged in jail, where it is alleged that he still continues to be involved in extorting money in association with Salman Tyagi, his involvement in 19 criminal cases and the fact that his wife is not interested to get the children admitted to a government school as well as the fact that earlier the petitioner and his wife had fabricated documents to obtain interim bail of the petitioner on the ground of medical emergency of his mother, I am not inclined to grant interim bail to the present petitioner.

6. Application of the petitioner for grant of interim bail is hereby dismissed.

न्यायमेव जयते

TALWANT SINGH, J

MAY 05, 2022/nk

[Click here to check corrigendum, if any](#)