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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 11.07.2023

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BAIL APPLN. 1663/2023

MOHD SAIR

..... Petitioner

Through: Mr. Pritish Sabharwal, Adv.

versus

STATE

..... Respondent

Through: Mr. Ajay Vikram Singh, APP
for the State with Insp.
Manmeet Singh, ATO/PS
Khyala.
Mr. Akhtar Hussain, Adv. for
R-2.

CORAM:**HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J. (ORAL)**

1. The present application has been filed seeking interim bail in FIR No. 121/2020 registered at P.S. Khyala under Sections 302/120-B/34 IPC on the ground that petitioner is suffering from certain medical conditions.
2. Notice in the application was issued on 18.05.2023 and medical report of the petitioner was requisitioned from the concerned jail authority.
3. The medical report dated 25.05.2023 issued by the Senior Medical Officer, Jail Dispensary, Central Jail No. 1, Tihar, New Delhi is on record.
4. Inviting attention of the court to the aforesaid medical report, the learned counsel for the petitioner submits that the petitioner is a



known case of haemorrhoids with chronic fissure-in-ano and atypical chest pain and he has been advised surgery for the same.

5. Learned counsel appearing on behalf of the complainant opposes the interim bail on the ground that the complainant apprehends threat to his life from the petitioner.

6. He further submits that the Superintendent, Tihar Jail by virtue of an order dated 16.03.2022 had issued a punishment ticket against the petitioner for threatening the complainant by using the jail call facilities for which he was punished as per Prison Rules. He further submits that earlier also the petitioner was granted interim bail on 17.11.2022 for a period of 20 days subject to the conditions mentioned therein but the petitioner did not comply with the said conditions and misused the bail.

7. In response, the learned counsel for the petitioner submits that the alleged punishment ticket referred to by the petitioner is prior to the order dated 17.11.2022 by which the petitioner was granted interim bail. He submits that when the petitioner was released on interim bail, he complied with all the conditions.

8. He further clarifies that during the period of interim bail an application for cancellation of the bail was filed by the complainant in which direction was given to the petitioner to report to the concerned IO on daily basis for the remaining period of interim bail and the petitioner complied with the said direction.

9. In so far as the petitioner's medical condition is concerned, there is no dispute that the petitioner is suffering from haemorrhoids with chronic fissure-in-ano with complaints of bleeding per rectum



and the petitioner has also been advised to undergo surgery for the same.

10. In so far as the threat perception of the complainant is concerned, the same can be addressed by putting appropriate conditions.

11. Having regard to the medical report and considering the fact that the petitioner has been advised surgery, the present petition is allowed and the petitioner is admitted to interim bail for a period of two weeks from the date of his release subject to his furnishing a personal bond in the sum of Rs. 25,000/- (Rs. Twenty-five Thousand only) with 01 surety bond in the like amount from the family member, to the satisfaction of the learned Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

- (a) Within 03 days of his release, the petitioner shall inform the Investigating Officer, in writing, the name of the hospital/medical facility and the attending doctor under whose treatment he will be while on interim bail. The petitioner shall also inform the I.O. in writing if he shifts from a hospital/medical facility or changes his attending doctor. The Investigating Officer shall be at liberty to visit the hospital/medical facility to verify the position;
- (b) While on interim bail, the petitioner shall, through his relatives, submit to the Investigating Officer his updated medical summary/record, every third day, indicating his current medical condition and progress;
- (c) At the time of his surrender, the petitioner shall furnish



to the I.O. his discharge summary, indicating the treatment that he has undergone while on interim bail;

(d) The petitioner shall not leave the State of NCT of Delhi without permission of this court and shall ordinarily reside at the address as per prison records/as mentioned in the petition;

(e) The petitioner shall furnish to the Investigating Officer/S.H.O P.S.: Khyala, a cell-phone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

(f) The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to the complainant or any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner 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 trial.

(g) Upon expiry of the period of interim bail, the petitioner shall surrender before the Jail Superintendent.

12. The petition stands disposed of.
13. Copy of the order be forwarded to the concerned Jail Superintendent for information and necessary compliance.
14. Order *dasti* under signatures of the Court Master.

VIKAS MAHAJAN, J

JULY 11, 2023/N.S. ASWAL

Signature Not Verified

Digitally Signed
By: NARENDRA SINGH
ASWAL
Signing Date: 13/07.2023
11:43:19

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