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

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Reserved on: 07.12.2023
Pronounced on: 22.12.2023

+ **BAIL APPLN. 3273/2023**

AKHILESH MISHRA

..... Petitioner

Through: Mr. K.K. Manan, Senior Advocate alongwith Ms. Udit Bali, Ms. Komal Vashisht, Mr. Rahul Khan, Ms. Saumya and Mr. Rahul Gautam, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Naresh Kumar Chahar, APP for the State with SI Nitin Singh, ARSC, Crime Branch.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The present application has been filed under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') by the applicant seeking grant of interim bail for a period of 3 months in case FIR bearing no. 264/2022, registered at Police Station Crime Branch, New Delhi, under Sections 170/389/387/465/471/120B/34 of Indian Penal Code, 1860 ('IPC').



2. The present FIR was registered at PS Crime Branch, Delhi on the complaint of Sh. Vipul Kaushik, which he had filed on behalf of Sh. Hardev Singh SB, who is the Industrial Unit President of Nippon Paint India Ltd. having its office in Mumbai and Vipul Kaushik is the channel partner of the company. In the complaint, Sh. Hardev Singh had alleged that on 08.11.2022, he had received two separate notices of Enforcement Directorate on his Whatsapp, one for his appearance and another for his colleague Kumar Hakim (who is the Director of procurement in the factory situated at Nippon Paint India - Mumbai), directing Hardev Singh and Kumar Hakim to appear before Enforcement Directorate officer Manoj Kumar Teekla in his office in Delhi on 14.11.2022. On 10.11.2022, the same notices had also been received by them via speed post. Hardev Singh had further alleged that on 05.11.2022, before receiving the said notice of the Enforcement Directorate, one Akhilesh Mishra (who is the supplier of solvents on commission basis in Nippon Paint India) had called Kumar Hakim and had told him that a big trouble was about to come over Hardev Singh however, he could help him to get rid of that trouble with the help of his contacts in Ministries. On 08.11.2022, Akhilesh Mishra had again called Kumar Hakim and confirmed about the trouble. On 10.11.2022, Hardev Singh had asked Kumar Hakim to meet Akhilesh Mishra in this regard. Thereafter, Kumar Hakim had met Akhilesh Mishra, who had demanded Rs. 2-3 crores to settle the matter and had also asked Kumar Hakim to arrange a meeting with Hardev Singh. On 11.11.2022, Hardev Singh had informed



Enforcement Directorate, Delhi about the said notices through his friend Vipul Kaushik, and from the office of Enforcement Directorate, Delhi, Hardev Singh had come to know that the said notices were fake. Accordingly, to catch the culprits red-handed, Hardev Singh had kept his conversation going on with Akhilesh Mishra and Darshan Harish Joshi (who is the buyer of mix solvents from Nippon Paint Ltd., Mumbai) to settle the matter. Akhilesh Mishra and Darshan Harish Joshi had told Hardev Singh that they have to visit Delhi to manage the matter at a higher level in the department, for which Hardev Singh has to bear their expenses and thus, Hardev Singh had arranged their flight tickets from Mumbai to Delhi and had also booked a room in Hotel The Ashok in Delhi.

3. On 14.11.2022, the Enforcement Directorate, New Delhi, had informed Crime Branch, Delhi that some individuals were attempting to extort money from a person, who lives in Mumbai, under the guise of being Enforcement Directorate officials. Thereafter, a raid was conducted at Hotel the Ashok, Chankyapuri, Delhi by Crime Branch, Delhi along with the officials of ED and a representative of the complainant i.e. Sh. Vipul Kaushik. During the raid, the accused persons Akhilesh Mishra, Darshan Harish Joshi, Vinod Kumar Patel, Dharmender Kumar Giri and Naresh Mahto were arrested. During the investigation, it was revealed that a person had arrived at the Ashok Hotel in a Ciaz car on which "Government of India" had been written. Accused Akhilesh Mishra, Darshan Harish Joshi, and Vinod Kumar had introduced him to Vipul Kaushik as the official of the



Enforcement Directorate. The said person had impersonated himself as an officer of the Enforcement Directorate and had threatened the complainant to settle the matter or else he would get an arrest warrant issued against Hardev Singh. The accused persons had also disclosed that the said fake ED officer and other accused persons were present at Gole Market, Delhi. A raid was conducted near Gole Market, Delhi, and accused persons namely Devender Kumar Dubey (who had impersonated himself as an ED officer), Asrar Ali and Vishnu Prasad were arrested. It was also revealed that one Gajendra @ Guddu had driven the Maruti Ciaz car to the Ashok Hotel with fake ED official i.e. Devender Dubey. Thereafter, Gajendra @ Guddu was arrested and the said Maruti Ciaz car bearing registration number HR 51 CG 8834, on which "Government of India" was written was also recovered and seized in the present case. On 15.11.2022, during the investigation, complainant Vipul Kaushik had further revealed that on 14.11.2022, after meeting with the fake ED official at the Ashok Hotel, Delhi, Akhilesh Mishra had threatened to kill him and Hardev Singh, if they did not pay the money. On the basis of this additional information, Section 387 of IPC was added in the present case. On 18.11.2022, during further investigation, accused Arun Kumar Singh was also arrested in the present case on the basis of disclosure statements made by the accused persons and Call Detail Records (CDR). During the investigation, call recordings were found in the mobile phone of Akhilesh Mishra, which revealed the active participation of Darshan Harish Joshi in this conspiracy.



4. After concluding investigation, charge-sheet was filed on 14.01.2023. The FSL report/result regarding the CCTV footage and mobile phones of the accused persons is still awaited and will be filed through supplementary charge-sheet.

5. Learned Senior counsel for the present accused/applicant argues that the applicant has been falsely implicated in the present case and there is no cogent evidence against the applicant. It is also stated that the chargesheet in this case has already been filed and investigation qua the applicant is complete. It is stated that the applicant has been granted interim bail on earlier occasions, and the condition of the eyes as well as the spine of the applicant has deteriorated over a period of time. It is also stated that the applicant had been experiencing extreme pain in the right side of his body and his right hand function has reduced to merely 50 %. It is also stated that there is breakage of bone between L4 and L5 of the spine and the petitioner has been in severe pain, and has been advised to undergo a major spinal surgery. It is further submitted that the sugar and the blood pressure of the applicant has also increased to a dangerous level due to him being incarcerated in jail. In these circumstances, it is prayed that applicant be granted interim bail for a period of 03 months.

6. Learned APP for the State further on the other hand argues that the applicant has been on interim bail for a period of about 07 months and even after remaining on bail for such a long period, he did not undergo the required treatment for which he is again seeking interim



bail. It is also stated that no date of surgery of spine has been fixed yet and further that the report of the Medical Board constituted at AIIMS clarifies that there is no need of any urgent surgical intervention and the condition of applicant as on date is stable. Therefore, it is prayed that the application for grant of interim bail be rejected.

7. This Court has heard arguments addressed by the learned Senior Counsel for the applicant as well as by the learned APP for the State, and has perused the material on record.

8. In the present case, the applicant was earlier released on interim bail on medical grounds for a period of 15 days on 25.02.2023 by the learned Trial Court, which was then extended till 12.04.2023. On 20.05.2023, the applicant was again granted interim bail till 20.07.2023 on medical grounds for the surgery of his eye, and this interim bail was also extended till 25.09.2023. Thereafter, the learned Trial Court had declined to extend the interim bail, and accordingly, the applicant had approached this Court on 26.09.2023 for grant of interim bail. Thereafter, the applicant was granted interim bail till 16.10.2023, and the State was directed to verify his medical documents.

9. *Vide* order dated 17.10.2023, this Court had extended the interim bail of the applicant till 07.12.2023, and had directed that a Medical Board be constituted by the Medical Superintendent of All India Institute of Medical Sciences (AIIMS), New Delhi to inform this Court as to whether the applicant needs to undergo emergent



surgery. The relevant portion of order dated 17.10.2023 reads as under:

“4. Considering the medical condition of the applicant, this Court orders that interim bail of the applicant be extended till the next date of hearing.

5. In the meanwhile, this Court directs the superintendent of All India Institute of Medical Science, Delhi to constitute a medical board to examine the applicant and to inform this Court as to whether the applicant needs to undergo emergent surgery. The applicant is directed to appear before the medical board on 22.11.2023, and the report of the concerned medical board will be submitted to this Court before the next date of hearing...”

10. This Court has now received a report dated 28.11.2023 from the AIIMS, New Delhi. The relevant portion of the report is extracted hereunder for reference:

“...A medical board was constituted by the Medical Superintendent AIIMS, on subject noted above. The meeting of the medical board was held on Tuesday 28h November, 2023 at 04:00 P.M. in Consultation Room No. 13, M.S. Office Wing, Ground Floor, AIIMS, New Delhi. All the members of the board were present. The assessment of applicant/ patient Mr. Akhilesh Mishra was conducted by the board members and they also reviewed his medical reports brought by him. He was also examined in Eye OPD and blood investigations and X-ray (LS Spine) was also conducted. Following are the findings of the medical examination:

At the point of current assessment, Mr. Akhilesh Mishra condition is stable. He has chronic backache for many years, for which he is already under treatment. There is no need for any urgent surgical intervention for the same.

The medical board unanimously opines that as of today, based on clinical examination & investigations, there is nothing to advise but physiotherapy as per the Department of Orthopaedics opinion for the patient. The patient may be planned for a Cataract Surgery in right eye on an elective basis after systematic stabilisation and blood sugar control.



Mr. Akhilesh Mishra condition is stable, and physical examination shows the age-related changes which may be managed conservatively with medicines. He requires regular, periodic follow up with the respective specialists on an outpatient basis for his ongoing conditions and can be treated in Jail or at the jail referral hospital viz. DDU, RML, LNUP. There is no indication for his hospitalization as on date for any urgent surgical intervention...”

11. It has been clearly opined by the Medical Board constituted at AIIMS, New Delhi, that the current medical condition of applicant is stable and there is no need for any urgent surgical intervention, and it has further been opined by the Department of Orthopedics that the applicant at this stage only needs physiotherapy. Further, the physical examination of the applicant shows only age related changes which can be managed with the medicines. As regards the eye related ailments of the applicant, the Medical Board has suggested that cataract surgery of the applicant’s right eye may be planned after systematic stabilization and blood sugar control.

12. Therefore, this Court is of the opinion that the applicant can be treated inside the jail, in the jail hospital, for his ailments, or as opined by the Medical Board, he can be taken to jail referral hospitals on an out-patient basis, as per his health condition and ailments. As per the jail referral policy, issued *vide* orders dated 10.02.2011 and 27.06.2022 by the office of Director General (Prisons), GNCTD, three categories of referral hospitals have been specified as per the medical condition of the prisoner, where the prisoner can be referred as and when required.



13. Thus, in view of the categorical opinion of the Medical Board constituted at the AIIMS, Delhi, this Court finds no reasons to extend the interim bail of the applicant on medical grounds.

14. However, the concerned Jail Superintendent is directed to take note of the report of the Medical Board of AIIMS, as well as the contents of para 12 of this judgment, and ensure that applicant is provided treatment including physiotherapy, either in the jail hospital or in jail referral hospital, as per his medical condition.

15. Accordingly, the present application is disposed of in above terms

16. Copy of this order be forwarded to the Jail Superintendent concerned for information.

17. The judgment be uploaded on the website forthwith

SWARANA KANTA SHARMA, J

DECEMBER 22, 2023/zp