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

+ **BAIL APPLN. 2007/2024 & CRL.M.A. 18828/2024,**
CRL.M.(BAIL) 1060/2024

MAHESH KHATRI @BHOLI IN JC Applicant
Through Ms. Joshini Tuli, Ms.
Shatakshi Sharma, Ms.
Pratiksha Gautam and Mr.
Joginder Tuli, Advs.

versus

STATE NCT OF DELHI Respondent
Through Mr. Ajay Vikram Singh,
APP for the State with SI
Mahendra Patel, PS
Narela.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **02.07.2024**

1. With the consent of the parties, the main bail application that is, BAIL APPLN. 2007/2024, is taken up for arguments today.
2. The date already fixed that is, 15.07.2024, stands cancelled.
3. The present bail application is filed under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC') seeking regular bail in FIR No. 96/2021 dated 16.03.2021, registered at Police Station Narela, for offences under Section 307 of the Indian Penal Code, 1860 ('IPC') and Sections 25/27 of the Arms Act, 1959 ('Arms Act').
4. The applicant, on an earlier occasion, filed a similar

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application under Section 439 of the CrPC, which was dismissed by this Court by order dated 04.04.2024.

5. The learned counsel for the applicant submits that there has been a change in circumstances since the dismissal of the bail application by this Court on an earlier occasion.

6. She submits that by order dated 29.04.2024, the applicant was released on interim bail and the applicant has not misused the liberty while on bail. She submits that the same is a change in circumstances, which entitled the applicant for an order of regular bail.

7. This Court, by detailed order dated 04.04.2024, had noted that the applicant is involved in about 60 other cases showing his involvement in serious offences including offences of theft and robbery and those under the Arms Act as well.

8. It was also noted that the applicant has already been convicted and has undergone sentence in other FIRs, being FIR No. 665/2013, for offences under Sections 356/379 of the IPC, as well as in FIR No. 214/2013, for offences under Sections 356/379/34 of the IPC.

9. This Court noted that taken note of the conduct of the applicant and noted that the applicant seems to commit another offence once he is released on bail. This Court also *prima facie* observed that such persons are a threat to society.

10. It is true that the applicant was released on interim bail by order dated 29.04.2024 in order to facilitate the school admission of his minor children. The applicant is stated to have surrendered on time pursuant to the expiry of the interim bail.

11. However, in the opinion of this Court, the same cannot be considered as a change in circumstances so as to entitle the



applicant to file another application for grant of bail. It was the duty of the applicant to comply with the conditions imposed by this Court while directing release of the applicant on interim bail. Thus, only because the applicant has surrendered and complied with the conditions as imposed by this Court, his compliance with the conditions cannot be termed as a circumstance which would allow the applicant to maintain a subsequent bail application.

12. It is not in doubt that the period of incarceration of an accused person is a ground for bail. However, the said factor was duly considered by this Court in order dated 04.04.2024. The applicant has filed the present application on 29.05.2024, less than two months after the dismissal of his bail application by this Court on merits.

13. If the argument advanced by the learned counsel for the applicant is accepted, then under trial accused persons would become entitled to bail even after their bail is dismissed merely because they do not flout the conditions imposed while granting interim bail.

14. When the bail application filed by the applicant has been dismissed on merits, this Court cannot review the said order and reappreciate the evidence

15. Though the applicant has the right to file successive bail applications, the same can only be entertained in light of material change in circumstances.

16. The Hon'ble Apex Court in the case of **Kalyan Chandra Sarkar v. Rajesh Ranjan : (2004) 7 SCC 528** had observed as under:



“20. Before concluding, must note that though an accused has a right to make successive applications for grant of bail the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.”

17. It has been held in a catena of judgments that there must be change in circumstances to warrant fresh consideration of the bail application. The successive bail applications filed without there being any material change in circumstances, is strongly discouraged. The practice of filing a subsequent application in close proximity would be an abuse of the process of Court.

18. In view of the above, this Court finds no merit in the present bail application.

19. The learned counsel for the applicant submits that the mother of the applicant is a senior citizen and she is suffering from various ailments.

20. She seeks liberty to file a fresh application seeking interim bail before the learned Trial Court.

21. The learned Trial Court is directed to consider the application seeking interim bail as and when filed by the applicant on its own merits without being influenced by the observations made by this Court in the present order.

22. The present bail application, along with the pending applications, are dismissed in the aforesaid terms.

AMIT MAHAJAN, J

JULY 2, 2024

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