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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of Decision: 30th July, 2024*

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CRL.A. 588/2024**AMIT VASHISHT**

.....Appellant

Through: Mr. Mohit Mathur, Sr. Adv with Mr. Rajesh Pandey, Mr. Nikhil Aggarwal, Mr. Harsh Gautam, Mr. Sajan Shankar Prasad & Mr. PC Mann, Advs. (M: 9711231773)

versus

STATE (GOVT OF NCT) OF DELHI (THROUGH PS SPECIAL CELL) & ANR.

.....Respondents

Through: Mr. Mukesh Kumar, APP.
Inspector Vikram & SI Sanjeev PS
Special Cell, Rohini.
Mr. M. S. Khan, Adv.

CORAM:**JUSTICE PRATHIBA M. SINGH****JUSTICE AMIT SHARMA****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present appeal under Section 21(4) of the National Investigation Agency Act, 2008 has been filed on behalf of the Appellant-Mr. Amit Vashisht, who is one of the victims in the present case, which emanates from the Case FIR No. 289/2021, under Section 307 of the IPC and Section 3 of the Explosive Substances Act, 1908, registered at P.S. Special Cell. *Vide* the present appeal, the Appellant seeks to challenge the impugned order dated 16th May, 2024 in **SC No. 627/2022** whereby, the interim bail granted to the Accused/Respondent No.2 -Mr. Bharat Bhushan Kataria vide order dated 26th July, 2023, has been extended till 31st July, 2024.



3. A brief background of this case as stated in the appeal is that an Improvised Explosive Device (*hereinafter*, 'IED') is stated to have been planted by the Respondent No. 2 in the Rohini Court complex. It is a matter of public knowledge that the said IED exploded on 9th December, 2021 at 10:30 A.M. during the Court proceedings in Court room no. 102, Rohini Court complex. It is also a matter of public knowledge that court staff was injured and the Appellant was one of the injured persons in the said blast.

4. On 9th December, 2021 an FIR No. 289/2021 was registered by the P.S Special Cell, under Section 3 of the of the Explosive Substances Act, 1908 and Section 307 of the Indian Penal Code, 1860. Subsequently, the Respondent No. 2 was arrested on 17th December, 2021.

5. It is the case of the Appellant, which is also supported by the status report filed by the police, that the Respondent No. 2 on 18th December, 2021 consumed some unknown substance, subsequent to which, he had to be admitted initially to a local hospital-Baba Saheb Ambedkar Hospital, Rohini (*hereinafter*, 'BSA') for treatment. Thereafter, he was moved to Safdarjung Hospital and finally, he was shifted to AIIMS. He was put in judicial custody and remained in AIIMS hospital for some time.

6. An application was then moved before the concerned Chief Metropolitan Magistrate (CMM) for seeking police custody remand which was allowed for 3 days after his appearance before the Court. However, he could not be discharged due to his health condition. Finally, only on 28th January, 2022, he was discharged from AIIMS and was shifted to the Tihar Jail complex.

7. It is stated that the medical condition of the Respondent No.2 was that he had oesophageal and stomach injury. He continued to obtain treatment



from the Tihar Jail hospital under the Gastro-intestinal surgery and Gastroenterology Department of AIIMS hospital.

8. The Respondent No. 2 then moved an interim bail application before the Trial Court in May 2022 which was dismissed *vide* order dated 28th May, 2022. Thereafter, on 22nd June, 2022, he moved another application for interim bail which was granted for a period of three months *vide* order dated 13th July, 2022. The said bail continued to be extended from time to time till date *vide* orders dated 16th August, 2022, 12th September, 2022, 12th October, 2022, 15th December, 2022, 9th February, 2023, 6th March, 2023, 1st July, 2023, 26th July, 2023 and 16th May, 2024. Thus, admittedly Respondent No.2 has been on interim bail for the past two years.

9. The last order dated 16th May, 2024 whereby interim bail was extended is the impugned order before this Court, by which bail was extended till 31st July 2024.

10. The submission on behalf of the Appellant is that the medical board of AIIMS gave a report dated 22nd February, 2024 in which the board has opined that the treatment regimen which has now been prescribed to the Respondent No.2 can be maintained while being in confinement. The relevant portion of the said report is set out below:

“1. Patient is a known case of corrosive oesophageal & gastric/ pyloric stricture and underwent repeated endoscopic therapy, which has revealed a multifocal long segment oesophageal stricture with antropyloric scarring and stricture.

1. He is managing well on enteral nutritional support through a Feeding Jejunostomy tube.

2. He requires a detailed ENT review for his complaints of hoarseness, inability to speak and throat pain. He also needs radiological evaluation to map the current extent



and level of oesophageal & gastric strictures to decide the future course of action.

3. He has failure of endoscopic treatment and he needs a definitive surgical intervention. We believe that the current treatment regimen can be maintained with the patient being in confinement with the provision that his nutritional support is duly taken care of. His further treatment can be done in attachment with AIIMS.”

Subsequently, the Senior Medical Officer at the Jain Hospital also gave a report dated 1st April 2024 on the same lines as the above AIIMS report.

11. The Id. Senior Counsel Mr. Mohit Mathur, appearing for the Appellant submits that, in spite of this report given by the medical board of AIIMS, the impugned order takes into consideration an earlier report dated 20th February, 2023 by the Medical Superintendent, CJH, Tihar Jail, to hold that a dietician is not available in the jail and therefore, the interim bail deserves to be extended.

12. This according to the Id. Senior Counsel is a completely fallacious basis to grant interim bail to Respondent No.2 on so many occasions. It is further submitted that Respondent No.2 has remained in judicial custody for a very minimal period. It is also highlighted by the Id. Senior Counsel that the consumption of substance is a self-inflicted condition that the Respondent No. 2 has brought to himself to avoid judicial custody. Id. Senior Counsel further urges that Respondent No.2 is a Scientist in the DRDO, who for his personal vengeance against the Appellant sought to put so many lives in jeopardy in the Court premises by impersonating as a lawyer and by implanting an IED device.

13. Mr. Mukesh Kumar, learned APP for the State, also highlights the status report, to argue that the video clips of the incident would show that the



identity of Respondent No.2 is not in dispute. It is further submitted that, the AIIMS report is very clear to the effect that treatment that is to be provided to the Respondent No.2 can take place even in the jail hospital where he was earlier provided the same treatment.

14. Mr. M.S. Khan, learned Counsel appearing on behalf of Respondent No.2 on the other hand submits that the medical condition of Respondent No.2 is quite delicate and he is still currently undergoing treatment from BLK Max Hospital. In fact, the treatment given by AIIMS was not sufficient and proper. As per the medical report from BLK Hospital, the condition of Respondent No.2 is improving. He further submits that many times, the Respondent No.2 requires emergency treatment, which cannot be provided in jail. Mr. Khan disputes the position that the injury was self-inflicted by consumption of any substance.

15. The Court has perused the record and has considered the following facts. Firstly, the Respondent No.2 consumed some unknown substance while in custody and inflicted this position upon himself. Secondly, the AIIMS report dated 22nd February 2024 and the report dated 1st April, 2024 by the Senior Medical Officer, CJH, Tihar Jail are clear to the effect that he can be provided the same treatment being in confinement.

16. On a pointed query from the Court with regard to the medical condition of the Respondent No. 2, Mr. Khan responds that generally Respondent No.2 is in his home where he is attended to by a nurse, but sometimes he requires emergency treatment. It is only in case of an emergency that the Respondent no.2 is required to be moved to the Hospital.

17. The Trial Court does not take into consideration the latest report from the Central Jail Hospital in Tihar dated 1st April, 2024 which clearly states



that the FJ Tube Feeding is available at the Central Jail Hospital also. The relevant portions of the said two reports are also extracted hereinbelow:-

Report dated 1st April, 2024

“In Continuation to the previous report dated 14.03.2024, it is humbly submitted that FJ Tube feeding can be done in Central Jail Hospital

.....Medical staff, comprising of doctors, nursing officers and nursing orderlies are present in shift duties round the clock to manage patients admitted in Central Jail Hospital.

18. The Trial Court in the impugned order in paragraph 23 while extending the interim bail records as under:

“So far as the present medical condition of the accused is concerned, he is still taking 50% of his feed through FJ Tube and as per report from the Medical Board, AIIMS, current treatment regimen can be maintained with the patient being in confinement with the provision that his nutritional support is duly taken care of and his further treatment can be done in attachment with AIIMS but as per report dated 20.02.2023 of Tihar Jail, there is no dietician in the Tihar Jail.”

19. In the overall facts and circumstances, considering the gravity of the offence as also the above-mentioned discussion and submissions, this Court is of the opinion that extension of interim bail repeatedly, which is continuing for the past two years, that too on the basis of a report dated 20th February, 2023 by the Medical Officer, Central Jail Dispensary, Tihar and ignoring the report dated 1st April, 2024 - is illfounded and untenable.

20. Moreover, it is demonstrated to the Court by means of a chart that



whenever the Court dates are nearing, while being on interim bail, there is a pattern of the Respondent no.2, getting admitted to hospital. Such conduct cannot also be ignored by the Court. A chart to this effect has been placed on record.

21. In view of these reports, this Court is of the opinion that the requisite care can be provided at the Central Jail Hospital, Tihar Jail. However, if there is any emergent requirement, the Respondent No.2 can be referred to BLK Max Hospital, purely at his own expenses for obtaining treatment and thereafter, shall again be taken back in custody.

22. The appeal is allowed and disposed of in the above terms.

23. The Respondent No.2, as requested, is permitted to surrender by 5th August, 2024.

24. Copy of the order sent to the concerned Jail Superintendent for necessary information and compliance.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

JULY 30, 2024
dj/nk/rks