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

+ **BAIL APPLN. 3726/2023 & CRL.M.A. 1486/2024**

VIJAY SINGH VERMA

..... Petitioner

Through: Mr. Tanvir Ahmed and Mr. Yash
Datt, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Manoj Pant, APP for the State
with SI Ghanshyam, P.S. Sarai
Rohilla.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

13.02.2024

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1. The instant application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of regular bail in case FIR bearing no. 117/2016, registered at Police Station Sarai Rohila, Delhi for the offences punishable under Sections 302/34 of the Indian Penal Code, 1860 ('IPC').

2. The present FIR was registered on the complaint filed by younger brother of present applicant who had alleged that the applicant and his eldest brother had a dispute with their father and sister over an ancestral property. It was alleged that the present applicant, his son, and applicant's eldest brother, in conspiracy with each other, had committed murder of the father and sister of the complainant on 27/28.01.2016. The applicant was arrested



on 29.01.2016 in the present case.

3. Learned counsel for the accused/applicant argues that applicant is a senior citizen suffering from serious medical ailments and therefore, he qualifies as ‘sick and infirm person’ entitled for grant of bail. It is stated that the applicant is suffering from interstitial lung diseases and has presently been diagnosed with Chronic Obstructive Pulmonary Disease (COPD) in the form of aggravated Bronchial Asthma, Pneumonitis, etc. It is argued that the earlier, the lungs of the applicant exerted a force vital capacity (FVC) of 42.16%, which as per his recent medical check up, has reduced to only 23%, which is way below the normal range i.e. 80-120%. It is further submitted that the aforesaid ailments of the applicant have already rendered him “infirm” for which he is compelled to take regular medical treatment by pulmonary specialists and has been rendered incapable of leading a normal life without monitored medical supervision. It is submitted that the applicant is presently out on interim bail which was first granted to him by the concerned trial court and extended twice, and thereafter, the interim bail was granted by this Court and was again extended on two occasions, after taking into account the medical condition of the applicant. It is, thus, prayed that solely considering the medical condition of the applicant, as well as the period of actual custody of the applicant, he be released on bail.

4. *Per contra*, learned APP for the State argues that the allegations against the applicant are serious in nature, and he is alleged to have committed murder of his father and sister. However, the medical condition of the applicant is not disputed, and it is submitted that the I.O. has verified the medical documents annexed by the applicant.

5. This Court has heard arguments addressed by learned counsel for the



applicant as well as learned APP for the State and has perused the material available on record.

6. In the present case, the applicant was granted interim bail by the learned Trial Court *vide* order dated 24.07.2023 considering the medical condition of the applicant, which was further extended on two occasions. Further request for extension was, however, declined by the learned Trial Court *vide* order dated 02.11.2023. Thereafter, this Court had granted interim bail to the applicant *vide* order dated 06.11.2023, and the same was extended *vide* orders dated 04.12.2023 and 16.01.2024.

7. As per the Status Report filed on record, the medical documents filed by the applicant have been verified by the investigating officer. A reply from Moolchand Hospital, Delhi has also been placed on record, wherein it has been mentioned by the concerned doctor that the documents filed by the applicant before this Court are authentic, and that the applicant was treated in the hospital as a case of severe chronic obstructive pulmonary disease. It is also mentioned that applicant is a jeweller by profession and his profession required cleaning of silver and gold jewelry with acids, which has resulted in severe lung damage and at present he is NYHA Class 3 and 4 Breathless. As reported by the doctors concerned, the applicant's pulmonary function test is suggestive of severe air-flow limitation, both obstructions and restriction, and he needs lung transplant.

8. This Court further notes that applicant herein was arrested in this case on 29.01.2016, and has remained in judicial custody for a period of about 4 years and 8 months. The applicant was earlier released on interim bail during the Covid-19 pandemic as per HPC guidelines, and he also has been on interim bail since 24.07.2023 in the present case, and he has not misused



the liberty so granted to him. This Court has previously also taken note of the fact that one of the brothers of applicant had unfortunately passed away, in judicial custody, due to the same medical condition.

9. For the reasons stated herein-above and considering the overall facts and circumstances of the case, this Court is inclined to grant regular bail to the accused/applicant on his furnishing personal bond in the sum of Rs.15,000/- with one surety of the like amount, to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
- ii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court.
- iii) The applicant shall share his mobile number with the IO/SHO concerned, which shall be kept operational at all times.

10. Accordingly, the present bail application stands disposed of.

11. The order be uploaded on the website forthwith.

FEBRUARY 13, 2024/zp

SWARANA KANTA SHARMA, J

Click here to check corrigendum, if any