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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
(95)+ BAIL APPLN. 3773/2023 & CRL.M.(BAIL) 145/2024,
CRL.M.A. 2021/2024

(96) BAIL APPLN. 3775/2023 & CRL.M.(BAIL) 101/2024,
CRL.M.(BAIL) 148/2024, CRL.M.A. 30757/2023, CRL.M.A.
1673/2024

(97) BAIL APPLN. 3776/2023 & CRL.M.(BAIL) 144/2024,
CRL.M.A. 30759/2023

MAJ SURENDRA KUMAR HOODA RETD Applicant

Through: **Mr.Sanjay Jain, Sr. Adv. with**
Mr.Shubhankar Sengupta,
Mr.Aarush Bhatia and Mr.Amit
Dogra, Adv.

versus

THE STATE NCT OF DELHI Respondent

Through: **Mr.Amol Sinha, ASC (Crl.)**
with Mr.Ashvini Kumar and
Mr.Arjun Singh Kadian, Adv.
Insp. Rajiv Gulati
Ms.Geeta Luthra, Sr. Adv. with
Mr.Indresh Upadhyay,
Mr.Saurabh Kumar, Mohd.
Faraz and Ms.Kamakshi Gupta,
Adv. for Complainant.
Mr.Manu Prabhakar, Adv. for
Complainant.
Mr.Tanveer Ahmad Mir and
Ms.Smriti Maheshwari, Adv.
for Complainant.
Mr.Vidur Mohan, Adv. for
Ms.Deepa Kapoor, Adv. for
Complainant.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA



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ORDER
05.02.2024

1. These applications have been filed under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'CrPC') seeking release on bail in FIR No. 0114/2016 registered with Police Station, Sarita Vihar, South-East District, Delhi for offences under Section 406/409/420/120B of the Indian Penal Code, 1860 (in short, 'IPC') [BAIL APPLN. 3773/2023]; FIR No. 0064/2016 registered with Police Station, Economic Offences Wing, EOW Delhi under Sections 406/409/420/120B of the IPC [BAIL APPLN. 3775/2023] ; and FIR No. 0116/2016 registered with Police Station, Sarita Vihar, South-East District, Delhi for offences under Section 406/409/420/120B of the IPC [BAIL APPLN. 3776/2023].

2. The learned senior counsel for the applicant has drawn my attention to the Order dated 19.01.2024 passed by the Supreme Court in SLP (Crl.) No. 638-640/2024 titled ***Shikha Sadh v. The State of NCT of Delhi & Anr.***, which reads as under:

“When the matter is called on for hearing today, it has been brought to our notice by Mr. Dave and Ms. Bhati, learned Senior counsel appearing for the respondent no.2 and the State respectively that the respondent no.2 has surrendered before the Chief Metropolitan Magistrate yesterday (i.e., 18.01.2024) and has been taken into custody today.

Mr. Dave has urged for bail/interim bail of the petitioner primarily on the ground of his client's various ailments and also advanced age.

We are of the view that this point can be raised before the appropriate Court on the basis of changed circumstances and once prayer for bail is made, we request the concerned Court to



deal with it expeditiously without being influenced by any observations contained in the impugned order.

The present petition shall stand disposed of in the above terms.

Pending application(s), if any, shall stand disposed of.”

3. This Court, vide its Order dated 25.01.2024, had, on applications seeking *interim* bail, being CRL.M. (BAIL) 145/2024 in BAIL APPLN. 3773/2023; CRL.M.(BAIL) 101/2024 in BAIL APPLN.3775/2023; and CRL.M.(BAIL) 144/2024 in BAIL APPLN.3776/2023, filed by the petitioner, directed as under:

“8. The medical records reveal that the petitioner has been taking treatment from Medanta Hospital, Sector-38, Gurugram (Haryana). Accordingly, it is directed that the Jail Superintendent shall present the petitioner before the concerned doctors of the said hospital today itself for admission till the next date of hearing, with all medical records of the petitioner, for the purpose of his treatment and management, at the expense of the petitioner. Needless to say, that the police officials who will accompany the petitioner shall be in plain clothes.

9. It is further directed that the wife, as well as, the son of the petitioner shall be entitled to be with the petitioner during the period of his admission in the hospital. They are also at liberty to furnish the medical records of the petitioner to the treating doctors.

10. The reports of necessary tests of the petitioner which are undertaken during the period of his stay in the hospital shall be filed before this Court before the next date, as well as, given to the IO concerned for being furnished to the Jail Superintendent, before the next date”

4. I am informed that pursuant to the above order, the applicant



has been admitted to the Medanta Hospital at Gurugram.

5. The learned Additional Standing Counsel (Criminal) for the State submits that the applicant has been advised certain procedure(s) for which the applicant is yet to give his consent. He submits that, therefore, there is no reason for the *interim* protection granted by this Court to be continued.

6. The learned senior counsel for the applicant, on the other hand, submits that the applicant is aged around 82 years and is suffering from various medical ailments. He submits that it is not easy for him to take a decision on the procedure advised, without a proper consultation and it is for this reason that there is a delay in him taking a decision on the same.

7. Be that as it may, in my view, after the Order dated 19.01.2024 passed by the Supreme Court, the appropriate remedy of the applicant should have been to move the learned appropriate court for seeking *interim* bail or *interim* protection, as the case may be.

8. At this stage, the learned senior counsel for the applicant prays for leave to withdraw the applications, including the main bail applications, that is, BAIL APPLN. 3773/2023, BAIL APPLN. 3775/2023, and BAIL APPLN. 3776/2023, with liberty to move the same before the appropriate court in accordance with law.

9. The above Bail applications along with all pending applications are, accordingly, dismissed as withdrawn with liberty as prayed for.

10. It is made clear that any such application moved by the applicant shall be considered in accordance with law remaining uninfluenced by any observation made in any of the orders of this



Court, including the Order dated 25.01.2024. In case the applicant is aggrieved of any order passed, it shall always be open to the applicant to avail his remedy in accordance with law.

11. The *interim* order of this Court dated 25.01.2024 shall extend for a further period of ten days.

12. Copy of this Order be given *dasti* under the signatures of the Court Master.

NAVIN CHAWLA, J

FEBRUARY 5, 2024/ns/RP

Click here to check corrigendum, if any