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

+ **BAIL APPLN. 4264/2023**

SACHIT SAXENA

..... Petitioner

Through: Mr. Archit Upadhayay, Advocate

versus

STATE (GNCT) OF DELHI

..... Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for
State with Insp. Vikas Pannu, P.S. Hazrat
Nizamuddin.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

25.01.2024

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CRL.M.A. 34756/2023 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This is an application under Section 439 Cr.P.C. filed by the Applicant Sachit Saxena S/o Sh. Sachin Saxena seeking interim bail for 90 days in FIR No.307/2021 dated 15.11.2021 registered under Sections 302/34 IPC at P.S. Hazarat Nizamuddin. Subsequently during investigation, Sections 396/395/411/120B IPC were added.
4. It is stated in the application that Applicant is a 24 years old boy, who had undergone open heart surgery on 18.04.2023. For the last two months, Applicant has been vomiting blood. Some discharge as well as blood is regularly oozing from his left ear. Applicant also suffers from lower back



pain, which fact is supported by the medical report dated 30.10.2023 filed by the SMO, Central Jail No.1 before the Trial Court in the interim bail application No. 3533/2023, disposed of on 07.11.2023. It is, however, fairly stated in the application that Applicant is being referred to various hospitals, where he is undergoing investigations and treatment as well as review of his medical condition, but despite this, there is no improvement in the medical condition.

5. Report dated 01.01.2024 has been received from the Superintendent, Central Jail No.1, Tihar regarding the medical condition of the Applicant. It is stated in the report that Applicant is a Post-Operative case of large sinus venous ASD (atrial septal defect), for which he has undergone surgery for closure of ASD on 18.04.2023 at G.B. Pant Hospital and is under follow up treatment with medication. On 17.05.2023, Applicant was referred to Safdarjung Hospital for his complaints of vomiting and chest pain over suture site and has also undergone review in the Neurology Department of G.B. Pant Hospital for Episodic Migraine. It is further stated that Applicant was referred to CTVS Department of G.B. Pant Hospital on 14.10.2023 for his complaint of blood in vomiting and left side ear bleeding and after examination, he has been advised to stop all medications and to consult the ENT Department. On 16.10.2023 UGI Endoscopy was done and it was revealed that Applicant suffers from Gastric and Duodenum-1 erosion, for which he has been advised medications. The case of the Applicant was reviewed in DDU Hospital with regard to the ear discharge with blood from the left ear and as per the diagnosis, Applicant suffers from Left Chronic Otitis Media and both for his ear problem and the blood in vomiting, he has been put on medication as per Doctor's advice.



6. Learned counsel for the Applicant submits that *albeit* there is no doubt that Applicant is being treated in the Jail and is also being referred to various Government hospitals, however, till date, there is no improvement in his medical condition and therefore, the Applicant be granted interim bail so that he is able to consult private hospitals and take necessary treatment. It is urged that right to health is a fundamental right and Applicant cannot be denied the enforcement of this right only because he is an undertrial prisoner. Learned APP, on the other hand, submits that all the necessary medical treatment is being provided to the Applicant and there is no cogent reason why he should be granted interim bail for treatment at private hospitals.

7. Having perused the medical report, there is little doubt that the Applicant is indeed a case of Post-Operative large sinus venous ASD and was operated for closure of ASD on 18.04.2023. Since then, Applicant has been suffering from several medical ailments including Gastric and Duodenum-1 erosion, Episodic Migraine, Left Chronic Otitis Media and vomiting in the blood. Medical report does indicate that medical condition of the Applicant is being reviewed and he is being referred to Government hospitals for investigations and treatment, however, the fact remains that there is little improvement in the medical condition and in these circumstances, the Court finds merit in the submission of the Applicant that he may be granted interim bail for consultation and necessary treatment at private hospitals of his choice. It is accordingly directed that the Applicant be released on interim bail for a period of six weeks from the date of his release, subject to the following conditions:-

(i) Applicant shall furnish a personal bond in the sum of



Rs.20,000/- (Rupees Twenty Thousand Only) with one sound surety of the like amount to the satisfaction of the Trial Court;

- (ii) He shall furnish his mobile number to the Investigating Officer and will keep the mobile operational at all times and will contact the IO telephonically once in three days;
- (iii) He shall not tamper with the evidence or otherwise indulge in any act or omission that is unlawful or would prejudice the proceedings in the pending trial and will not extend any threats or inducements to the witnesses and/or any other person(s) connected with the case and/or come in contact with them;
- (iv) He shall not leave Delhi/NCR during the period of interim bail without permission of the Trial Court; and
- (v) Upon expiry of the period of interim bail, he shall surrender forthwith before the concerned Jail Superintendent.

8. Application is allowed and disposed of in the aforesaid terms.

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

JYOTI SINGH, J

JANUARY 25, 2024/kks