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

+ **BAIL APPLN. 3550/2024**

IRFAN @ FURKAN @ ASHIF

.....Petitioner

Through: Mr. Jitender Tyagi and Mr. Nirmal
Singh, Advocates

versus

STATE OF NCT DELHI

.....Respondent

Through: Ms. Richa Dhawan, APP for State
with Insp. Satbir

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

12.12.2024

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1. The instant petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier Section 439 of the Code of Criminal Procedure, 1973) has been filed on behalf of the petitioner applicant seeking interim bail in FIR No. 461/2013, registered at the Police Station - Jaitpur, New Delhi for the offences punishable under Sections 302/201/34 of the Indian Penal Code, 1860 on medical grounds.

2. Learned counsel appearing on behalf of the applicant submitted that the applicant is suffering from several ailments inside the jail and due to the same, he had moved an application for interim bail which was dismissed vide order dated 10th September, 2024 by the learned ASJ.

3. It is submitted that the applicant was released on interim bail earlier, however, he could not surrender before the concerned jail superintendent as



the trial was going on and after examination of some of witnesses, the applicant was told by some persons that his case has been disposed of as the public witnesses did not support the case of the prosecution, and therefore, he stopped coming to the Court under that impression. Subsequently, the applicant was arrested as proclaimed offender (hereinafter “PO”) on 5th April, 2024.

4. It is submitted that the applicant is a known case of coronary artery disease with hypertension and diabetes mellitus who is also suffering from frequent UTI with thrombocytopenia. Although he is under regular follow-up by jail duty doctors, senior resident medicine, jail visiting surgeon from DDU Hospital, Surgery department of DDU Hospital and Cardiology department of Safdarjung hospital, however, his condition is not improving and the same is deteriorating. The petitioner was last reviewed by the jail senior resident medicine on 16th August, 2024 in view of the UTI, wherein, his urine examination report shows severe infection in urine.

5. It is submitted that the applicant is not getting effective treatment inside the jail even though he is being treated in different hospital now, and there is no improvement in his health condition inside the jail.

6. It is submitted that the contents of the FIR are false and fabricated, and no such incident has ever taken place. The applicant is innocent and has been falsely implicated in the case.

7. It is further submitted that all the public witnesses have already been examined but nothing incriminatory has come on record. The applicant has remained in custody from 12th December, 2013 till 5th May, 2016 and thereafter, he was again arrested on 5th April, 2024. The trial of the case will take a long time, and thus, it is prayed that the instant application may be



allowed and the applicant be released on interim bail.

8. The notice was issued to the State vide order dated 3rd October, 2024 and the learned APP for the State appearing on advance notice had accepted notice and prayed to verify the facts as stated in the application.

9. *Per Contra*, the learned APP for the State submitted that the medical report dated 11th October, 2024 is on the record. As per the said medical report, it is clear that the applicant has been subjected to regular follow-up by the Jail Authority in the Safdarjung Hospital and DDU Hospital. It is submitted that the applicant, who was earlier released on interim bail in the year 2016, jumped the interim bail and even his sureties were not able to produce him.

10. It is also submitted that following the violation of the bail conditions by the applicant, imposed upon him while grant of regular bail, non-bailable warrants were issued against him and the process under Sections 82/83 of the Code of Criminal Procedure, 1973 was initiated against him. It is further submitted that the applicant was declared a PO in the year 2017 and he was arrested on 5th April, 2024, and produced before the Court concerned from where he was sent in the judicial custody.

11. It is submitted that the applicant has filed the instant bail application on medical grounds and meanwhile, he also filed another interim bail application before the learned ASJ, however, the same was filed during the pendency of the instant application, on the ground of his daughter's marriage which was to be solemnised on 7th December, 2024, without disclosing the fact that his interim bail application on medical grounds is pending for adjudication before this Court.

12. It is submitted that after verification of the statement of his wife and



neighbours, the reply was filed before the learned ASJ in the interim bail application which was filed on the ground of the marriage of his daughter. The learned ASJ, after considering the facts and verification of the case, granted interim bail to the applicant vide order dated 19th November, 2024 and released him for a period from 1st December, 2024 to 10th December, 2024 with the condition that the applicant shall mark his attendance in the concerned Police Station daily at 5:00 P.M.

13. It is submitted that the applicant never marked any attendance in the concerned Police Station and never complied with the terms and conditions imposed upon him by the learned ASJ while granting the interim bail on the pretext of his daughter's marriage.

14. It is submitted that when the matter was brought to the notice of this Court that the applicant has already been released on interim bail without disclosing the fact that the interim bail is pending before this Court, the State filed an application seeking cancellation of interim bail before the learned ASJ.

15. It is further submitted that the cancellation application was filed on two grounds i.e., *firstly*, the interim bail application was filed without disclosing the facts of the pendency of the instant application before this Court and *secondly*, the applicant violated the terms and conditions as stated in the bail order dated 19th November, 2024 that he shall mark his attendance before the concerned Police Station every day at 5:00 P.M. which he never complied with. The said application seeking cancellation of interim bail was allowed by the learned ASJ vide order dated 7th December, 2024 and non-bailable warrants were issued against the applicant. Moreover, the applicant has not surrendered before the Court concerned yet.



16. It is submitted that in view of the above facts and circumstances, the applicant is not entitled for any concession by this Court and the instant bail application may be dismissed.

17. Heard the learned counsel appearing on behalf of the parties and perused the material placed on record. The status report which has been produced before this Court during the arguments has been taken on record.

18. After perusal of the contents made in the status report as well as the order dated 7th December, 2024 passed by the learned ASJ, thereby, cancelling the interim bail which was granted on the ground of marriage of applicant's daughter, this Court is of the opinion that the applicant has concealed the facts before the learned ASJ while seeking interim bail and obtained the same on the wrong facts.

19. It is observed that the learned ASJ cancelled the applicant's interim bail on various grounds. *Firstly*, the applicant concealed the fact of pendency of interim bail application pending before this Court. *Secondly*, the applicant violated the bail condition imposed upon, i.e., to mark attendance in the concerned police station at 5:00 PM daily and *lastly*, the applicant is absconding.

20. It is an admitted fact that the applicant was earlier released on bail in the year 2016, however, he failed to abide by the terms and conditions imposed on him at that time.

21. Following the same, non-bailable warrants were issued against the applicant, process under Sections 82/83 of the Code of Criminal Procedure, 1973 was initiated against him and the applicant was declared PO in the year 2017 pursuant to which he was arrested only on 5th April, 2024. Thereafter, the applicant applied for the interim bail on medical grounds



before this Court and simultaneously applied for interim bail before the learned ASJ on the ground of his daughter's marriage.

22. In view of the above facts and circumstances as well as bearing in mind the conduct of the applicant, this Court is of the view that this is not a fit case to grant interim bail to the applicant. The same is based upon various grounds. *Firstly*, the applicant never complied with the terms and conditions of the interim bail order which was granted by the Court concerned. *Secondly*, the applicant knowingly concealed the fact before the Court concerned that an interim bail application on medical grounds is pending for adjudication before this Court and obtained interim bail on concealed facts. The applicant also failed to apprise this Court that he has filed an interim bail application before the learned ASJ and the same was informed to this Court by the learned APP only.

23. *Thirdly*, the applicant has not surrendered despite the cancellation of his interim bail vide order dated 7th December, 2024 passed by the learned ASJ. Therefore, this Court is of the considered view that the applicant's conduct is not satisfactory as he was an absconder earlier, he filed two interim bail applications before different Courts simultaneously and that he has not surrendered before the Court concerned yet despite cancellation of his interim bail and issuance of non-bailable warrants against him vide order dated 7th December, 2024. Further, in terms of the status report and the medical report, the applicant has been regularly taken up to the aforesaid hospital for his checkups/follow-up and he has been unable to bring on record any material evidence to show that the treatment he has been already receiving is not appropriate for which he may be released on interim bail.

24. Accordingly, this Court does not find any merit in the instant bail



application and the same stands dismissed being devoid of any merit. Pending applications, if any, also stand dismissed.

25. It is made clear that the observations made hereinabove are not to be taken as an expression of this Court on the merits of the case before the learned Trial Court.

CHANDRA DHARI SINGH, J

DECEMBER 12, 2024
gs/ryp

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