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

+ **BAIL APPLN. 3845/2024**

KAPIL @ LUCKY

.....Petitioner

Through: Mr. Amjad Khan and Mr. Sumit
Kumar, Advocates

versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents

Through: Ms. Richa Dhawan, APP for the State
with SI Sukhchain from PS Nihal
Vihar

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

05.11.2024

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1. The instant bail application under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier under Sections 439 read with Section 482 of the Code of Criminal Procedure, 1973) has been filed by the petitioner/applicant seeking the following relief:-

“Pass an order(s), directing the petitioner may kindly be released for 8 Weeks, on the interim bail, in the present case F.I.R. No.1169/2020, registered at P.S. Nihal Vihar, Delhi, in the view of the above stated critical health condition of the petitioner’s old ailing dependent mother, on any terms & condition which deems fit and proper by this Hon’ble Court, in the Interest of Justice.”

2. Learned counsel appearing on behalf of the applicant submitted that the applicant is an innocent person and has been falsely implicated in the impugned FIR. It is submitted that the applicant has four siblings i.e., one elder brother and three elder sisters, all of whom are married and are living



separately. It is further submitted that the elder brother of the applicant namely Mr. Harish *alias* Sonu is also in judicial custody pertaining to the instant case.

3. It is submitted that the father of the applicant is paralysed and the mother has a knee problem for which she has been advised to undergo knee replacement surgery by the concerned doctor, and the same is scheduled for today i.e., 5th November, 2024. The medical records of the applicant's mother are annexed as Annexure A-3 to the instant application.

4. It is submitted that the said medical condition of the applicant's mother has been verified by the State and accordingly, filed a status report, wherein, despite verifying the said condition, the State erroneously opposed the instant application for the grant of interim bail.

5. It is further submitted that with the elder brother of the applicant being languishing in jail, his father being paralysed, wife and other sisters of the applicant living separately, there is nobody to take care of the applicant's mother and therefore, it is prayed that he may be released on interim bail for a period of eight weeks.

6. On instructions, learned counsel for the applicant undertakes that the applicant shall abide by all the terms and conditions imposed by this Court while granting interim bail.

7. *Per contra*, learned APP for the State has vehemently opposed the instant application seeking interim bail submitting to the effect that the said application is nothing but a gross misuse of process of law. He further submitted that serious allegations are levelled against the applicant for the offences punishable under Sections 364-A/302/201/120-B/34 of IPC.



8. It is submitted that there is no force in the submissions advanced by the learned counsel for the applicant, especially pertaining to the fact that there is no one in his family to take care of the applicant's mother at the time of her surgery or so as the applicant has three elder sisters, all of whom are married, and a wife who are well capable to take care of the applicant's mother.

9. It is further submitted that the first application seeking interim bail filed by the applicant on the same ground was dismissed by the Court concerned *vide* order dated 6th September, 2024 due to absence of supporting documents. Thereafter, another application seeking interim bail on the same ground was again dismissed by the learned ASJ *vide* order dated 20th September, 2024. Despite the same, the applicant has approached this Court as a third attempt in order to seek the same relief on the same grounds, and the same is liable to be dismissed.

10. Therefore, it is submitted that in view of the aforesaid facts and circumstances, no case is made out for the grant of interim bail to the applicant as he is charged with the commission of heinous offences. Moreover, despite the applicant been languishing in jail since 23rd December, 2020, no application for regular bail was preferred by him since then.

11. It is further submitted that since other siblings of the applicant are available to take care of the applicant's mother, the instant application for interim bail on the ground of medical condition of his mother is baseless. Therefore, it is prayed that the present application being devoid of merits deserves to be dismissed.



12. Heard learned counsel for the parties and perused the contents of the application.

13. Upon perusal of the contents of the instant application, aforesaid FIR and the orders dated 6th September, 2024 and 20th September, 2024 which are annexed as Annexure A-2 to the instant application, it is observed that there are other family members of the applicant available to take care of the applicant's mother at the time of her knee replacement surgery and for post-surgery recovery. Moreover, it is observed that the applicant is charged with heinous offences and the previous two bail applications, wherein the relief of interim bail was sought on the same grounds, were dismissed by the Court concerned vide orders dated 6th September, 2024 and 20th September, 2024,

14. Therefore, in light of the aforesaid, this Court does not find any force in the arguments advanced by the learned counsel for the applicant and is of the view that the instant application is bereft of any merits.

15. Accordingly, the instant application stands dismissed. Pending applications, if any, also stands dismissed.

CHANDRA DHARI SINGH, J

NOVEMBER 5, 2024

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Click here to check corrigendum, if any