



2024:DHC:8323-DB



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

Date of decision: 25.10.2024

+ CRL.A. 997/2024 & CRL.M.A. 32495/2024

MOHD SALEEM KHAN

.....Appellant

Through: Mr. Gautam Khazanchi, Mr.
Vaibhav Dubey and Ms. Pooja
Deepak, Advs.

versus

STATE (GOVT OF DELHI)

.....Respondents

Through: Mr. Amit Prasad, SPP for State
with Ms. Ruchika Prasad, Mr.
Ayodhya Prasad and Ms.
Chanya Jaitly, Advs. with Insp.
Subaib Ahmed, P.S. Special
Cell, New Delhi.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed under Section 21(4) of the National Investigation Agency Act, 2008 read with Section 43-D(5) of the Unlawful Activities (Prevention) Act, 1967, challenging the Order dated 23.10.2024 (in short, 'Impugned Order') passed by the learned Additional Sessions Judge-03, (Shahdara), Karkardooma Courts, Delhi (in short, 'Trial Court') in I.A. No. 216/2024 in SC No.



163/2020 titled ***State Vs. Tahir Hussain & Ors.***

2. The above application was filed by the appellant herein under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking grant of *interim* bail for the period of four weeks for preparing and appearing in the theoretical examination of Senior Secondary conducted by the National Institute of Open Schooling (in short, 'NIOS'), commencing from 29.10.2024.

3. By the Impugned Order, the learned Trial Court has rejected the said application, observing as under:-

“5. Keeping in view the simple fact that when examination centre is already there in the Mandoli Jail, no justified reason is made out to grant interim bail to the applicant for the purpose of writing the exam.”

4. The learned counsel for the appellant submits that the appellant was arrested in relation to FIR No. 59/2020 registered at P.S.- Crime Branch, New Delhi on 25.06.2020. He was earlier granted custody parole *vide* an Order dated 09.09.2022 passed by the learned Trial Court and, thereafter, by an Order dated 18.11.2023, he was also granted *interim* bail for a period of two weeks on humanitarian grounds, for helping his daughter in setting up of her dental clinic. The appellant was further granted *interim* bail *vide* an Order dated 05.06.2024, for a period of two weeks, to help his daughter in buying an 'OPG Slim machine' for her dental clinic. The appellant was also granted *interim* bail for a period of 10 days *vide* an Order dated 02.07.2024, on humanitarian ground, for helping his son for



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undergoing Laproscopic Cholecystectomy (Surgery) and provide him mental support.

5. The learned counsel for the appellant submits that on all the above occasions, the appellant duly surrendered on time before the concerned authorities and there was no allegation against the appellant of misusing the relief granted to him in any manner.

6. He submits that for appearing for the practical examination held by the NIOS, the appellant was taken in custody parole granted *vide* an Order dated 24.09.2024 passed by the learned Trial Court. However, there were several difficulties faced by the appellant as he was not taken for the practical examination at the required time and was insisted upon to come back earlier than required.

7. The learned counsel for the appellant, based on the above facts, submits that there is, therefore, no reason why his application for *interim* bail for appearing in the examination should have been rejected by the learned Trial Court. He submits that the examination is scheduled to be held between 29.10.2024 to 26.11.2024.

8. On the other hand, the learned Special Public Prosecutor submits that by a Communication dated 22.10.2024, the NIOS has informed that there is an examination centre in Mandoli Jail itself, and the centre of the appellant can be changed to the said centre, where he can appear for his theory examination. The said centre can be changed either at the request of the appellant himself or at the direction of this Court. He submits that therefore, there is no reason for enlarging the appellant on *interim* bail, when his appeal against rejection of the bail application is listed before this Court on 25.11.2024.



9. We have considered the submissions made by the learned counsels for the parties.

10. By the Letter dated 22.10.2024, the NIOS has stated as under:-

“1. The Centre of the learner can be changed to Mandoli Jail and the learner, will be able to appear in the Theory Examinations of Oct/Nov, 2024 from the exam centre Mandoli Jail.

2. The allotted exam centre can be changed on the request of the learner as well as on the directions of honourable Court.

3. As per NIOS norms the fee for change of exam centre is Rs. 1500/- (payable through Demand Draft in favour of Secretary, NIOS, payable at NOIDA).

4. Mandoli Jail is an Examination Centre of NIOS for conduct of October-November, 2024 Public Examination and has been allotted with centre no. 177120/277120.”

11. Therefore, a bare perusal of the said communication reveals that the centre of the appellant to give his theory examination can be easily changed to Mandoli Jail. This could be done at the request of the appellant itself or at the direction of this Court.

12. Keeping in view that the examination of the appellant is scheduled to start from 29.11.2024, at the request of the learned counsel for the appellant, we direct the NIOS to change the examination centre of appellant to Mandoli Jail. As, the appellant is in custody, he shall deposit the stipulated charges for the same within a week from today, by himself or through any representative. However, we make it clear that the centre shall be changed by the NIOS without insisting on the pre-deposit of this amount.

13. We herein note that the learned counsel for the appellant has



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stated that the centre for the appellant to give his examination can be changed and it is at his request that this Order has been passed.

14. In view of the above, we find that nothing more survives for further consideration in the present appeal.

15. A copy of this Order shall also be sent to the concerned Jail Superintendent for ensuring compliance.

16. The appeal and pending application are disposed of in the above terms.

17. *Dasti* under the signatures of the Court Master.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 25, 2024/sds/f/VS