



2024:DHC:8810



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 13th November, 2024

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BAIL APPLN. 4110/2024 & CRL.M.A. 33892/2024

MAHESH KHATRI @ BHOLI

.....Applicant

Through: Mr. Joginder Tuli, Ms.
Joshini Tuli and Ms.
Taniya Qureshi, Advs.

versus

STATE (NCT OF DELHI) THROUGH SHO,
P.S. NARELA

.....Respondent

Through: Mr. Utkarsh, APP for the
State with SI Mahendra
Patel, PS Narela.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J (Oral)

1. The present bail application is filed seeking regular bail in FIR No. 96/2021 dated 16.03.2021, registered at Police Station Narela, for offences under Section 307 of the Indian Penal Code, 1860 ('IPC') and Sections 25/27 of the Arms Act, 1959.
2. At the outset, the learned Additional Public Prosecutor for the State submits that the bail application of the applicant, being, BAIL APPLN. 1170/2024, was dismissed by this Court on merits by order dated 04.04.2024.
3. He points out that thereafter the applicant had preferred another bail application, being, BAIL APPLN. 2007/2024, which



2024:DHC:8810



was also dismissed on 02.07.2024. He submits that no fresh ground or change in circumstances has been pleaded by the applicant in the present application.

4. The learned counsel for the applicant submits that the applicant was falsely implicated in the present case.

5. He submits that the applicant was granted interim bail on 06.08.2024 by the learned Trial Court, which was subsequently extended on multiple occasions, and the liberty was not misused by the applicant. He submits that the applicant surrendered on time and made no attempt to evade the legal process.

6. It is pertinent to note that the applicant had raised an analogous ground in his 2nd Bail Application before this Court (that is, BAIL APPLN. 2007/2024) of not having misused the liberty when he was granted interim bail by this Court on 29.04.2024.

7. This Court while dismissing the said application by order dated 02.07.2024 had noted that mere compliance with the conditions imposed by the Court while granting interim bail cannot be constituted as a change in circumstances so as to allow the applicant to maintain a successive bail application. The relevant portion of the said order is reproduced hereunder:

“10. It is true that the applicant was released on interim bail by order dated 29.04.2024 in order to facilitate the school admission of his minor children. The applicant is stated to have surrendered on time pursuant to the expiry of the interim bail.

11. However, in the opinion of this Court, the same cannot be considered as a change in circumstances so as to entitle the applicant to file another application for grant of bail. It was the duty of the applicant to comply with the conditions



imposed by this Court while directing release of the applicant on interim bail. Thus, only because the applicant has surrendered and complied with the conditions as imposed by this Court, his compliance with the conditions cannot be termed as a circumstance which would allow the applicant to maintain a subsequent bail application.

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13. If the argument advanced by the learned counsel for the applicant is accepted, then under trial accused persons would become entitled to bail even after their bail is dismissed merely because they do not flout the conditions imposed while granting interim bail.

14. When the bail application filed by the applicant has been dismissed on merits, this Court cannot review the said order and reappreciate the evidence 15. Though the applicant has the right to file successive bail applications, the same can only be entertained in light of material change in circumstances. 16. The Hon'ble Apex Court in the case of **Kalyan Chandra Sarkar v. Rajesh Ranjan : (2004) 7 SCC 528** had observed as under:

'20. Before concluding, we must note that though an accused has a right to make successive applications for grant of bail the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.'

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17. It has been held in a catena of judgments that there must be change in circumstances to warrant fresh consideration of the bail application. The successive bail applications filed without there being any material change in circumstances, is strongly discouraged. The practice of filing a subsequent application in close proximity would be an abuse of the process of Court."

8. Despite the dismissal of his 2nd Bail Application before this Court on the ground of liberty not being abused while the applicant was enlarged on interim bail, the applicant has again preferred a fresh bail application. No other ground has been taken



2024:DHC:8810



by the applicant to establish change in circumstances except for his compliance of the conditions imposed during grant of interim bail.

9. It is pertinent to note that the 1st Bail application of the applicant before this Court was dismissed on 04.04.2024 after considering the diametrically opposite stand taken by the victim and his brother. It was noted that the corroborated part of a hostile witnesses testimony can be relied upon. This Court had also taken into account the gravity of the offence and the nature of the antecedents of the applicant. Reliance was also placed on the judgment of the Hon'ble Apex Court in the case of ***Gudikanti Narasimhulu v. Public Prosecutor, High Court of A.P. : (1978) 1 SCC 240*** where it was held that a thoughtless bail to habitual criminals enables them to indulge in further crimes and exploit the liberty.

10. The applicant is involved in multiple cases of serious nature, involving offences of theft and robbery and offences under the Arms Act, 1959. The applicant has also been convicted in two such cases.

11. It was observed that the accused commits a crime when he is enlarged on bail and while the same alone cannot be a ground to deny bail, however, such accused persons are a threat to society and cannot be granted bail for the sole reason that one victim has turned hostile.

12. Even though it is argued that the compliance of the conditions by the applicant when he was enlarged on interim bail



2024:DHC:8810



is sufficient to allay the apprehension of him further indulging in other crimes, this Court cannot turn a blind eye to the extensive criminal history of the applicant.

13. Insofar as the period of incarceration is concerned, significant time has not elapsed since the dismissal of the previous bail applications of the applicant. Moreover, orders dated 12.07.2024 and 07.11.2024, passed by the learned Trial Court, indicate that the learned Trial Court has taken steps to ensure that proceedings in the matter can be concluded without delay.

14. While period of incarceration is one of the grounds to be considered while considering grant of bail, in the present case, the bail application of the applicant was last dismissed on 02.07.2024, that is, around four months back.

15. As noted in order dated 02.07.2024, successive bail applications that are filed in a routine manner, without any material change in circumstances, in such close proximity, amounts to abuse of the process of Court.

16. It is seen that the previous bail applications of the applicant were also filed by the same counsel. On being pointedly asked as to why successive applications have been preferred without any change in circumstances or without seeking the appropriate remedy before the Hon'ble Apex Court, the learned counsel reiterates that the applicant was again granted interim bail and he did not flout the conditions.

17. As already noted above, this Court had categorically



2024:DHC:8810



denied bail to the applicant on 02.07.2024 on the said ground.

18. The Hon'ble Apex Court has deprecated the practice of filing of successive bail applications without material change in circumstances.

19. Considering the aforesaid discussion, this Court deems it apposite to impose a cost of ₹10,000/- on the counsel, to be paid to the Delhi High Court Legal Services Committee, within a period of four weeks from date.

20. The present application is dismissed in the aforesaid terms. Pending application also stands disposed of.

21. A copy of this order be sent to the Bar Council of Delhi for information.

AMIT MAHAJAN, J

NOVEMBER 13, 2024