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

+ **BAIL APPLN. 1855/2025, CRL.M.A. 14976/2025**

NITIN KUMAR SHARMA

.....Petitioner

Through: Mr. Javed Ali, Ms. Farheen Jahan,
Mr. Shadab Ali and Mr. Aniket
Bhattaraj, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for State
with Mr. Arun Sindhu, Insp., ARSC
Crime Branch.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

15.05.2025

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1. The Petitioner through the present petition, under Section 483 read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023,¹ seeks interim bail for a period of two months in proceedings arising from FIR bearing no. 27/2018 registered at Police Station: G.T.B Enclave. This request is made on the ground that he needs to accompany and support his wife during her hysterectomy procedure.

2. It must be noted that this ground was in fact accepted by the Trial Court and by order dated 23rd December, 2024, the Petitioner was released on interim bail for a period of 30 days. However, the surgery was not carried out during this period, and the Petitioner once again sought interim bail on

¹ "BNSS"



the same grounds, this time for a duration of three months. This subsequent application was decided by the impugned order dated 8th April 2025, wherein the Trial Court observed as follows:

“4. By order dated 23.12.2024, the accused was admitted to interim bail for a period of 30 days. This relief was granted to the accused so as to enable him to attend to his wife, who was advised surgery for gynaecological ailments. This relief was granted on humanitarian grounds.

5. In the present application it is averred that wife of the accused could not be operated for her gynaecological ailments because the attending doctors were of the view that before operating her for gynaecological ailments she must be operated for her back pain i.e. Foraminotomy must precede hysterectomy.

6. The lower back pain complained by wife of the accused is not acute but apparently chronic as she had visited, in August and September 2024, Dr. K.K. Gupta, who is the Orthopedic Consultant at the Paras Hospital, Vaishali to address the issue of her back pain. Dr. K.K. Gupta had issued a certificate in this regards, which has been produced for perusal of the court. This certificate was delivered by Dr.K.K. Gupta to the IO when verification of the facts averred in the present application were required to be made. The said doctor advised her diagnostic MRI but she did not turn up to the said doctor thereafter.

6.1 Thus, it is manifest that when the prior application seeking interim bail was moved, the accused and his wife were aware of the lower backache which wife of the accused was experiencing and had been seeking medical advise upon it. This prior application was moved on 05.12.2024. The applicant/ accused omitted to aver the existence of the issue of lower back pain experienced by his wife, in that application.

7. The conduct of the applicant/accused as observed above is unwarranted as when an accused seeks relief on humanitarian grounds, he must be approaching the court with clean hands and must ensure that all the facts are disclosed to the court. The accused in the present case seems to be employing the misfortune of his wife to obtain the effects of regular bail under the garb of intermittent interim bails. This conduct must not be appreciated and promoted and hence, the present application is dismissed.

8. Copy of this order be given dasti to Ld. Counsel for the applicant/accused.”

3. Counsel for the Applicant submits that the Trial Court erred in its decision dated 8th April, 2025 and failed to note the correct facts and circumstances of the case. He explains that there were genuine



circumstances that prevented the surgery during the period of interim bail granted to the Applicant.

4. On the other hand, Mr. Amit Ahlawat, App for the State, strongly opposes the interim bail application. He contends that the Applicant is misusing the judicial process by repeatedly filing interim bail applications and there are no fresh circumstances to justify the grant of interim bail.

5. Heard. In the opinion of the Court, the view taken by the Trial Court in light of the facts noted in the order extracted above, calls for no interference. As per the verification report of the doctors (Dr.KK Gupta and Dr. Hemant Kumar), only conservative treatment was advised, and no emergency medical intervention was recommended. The medical records relied upon by the Petitioner are either repetitive or pre-existing and were already available at the time of the previous bail application. Further, on a pointed query of the Court, as to whether any medical record exists in which a doctor has certified that the Petitioner's spouse is fit for surgery and a definite date for the procedure has been scheduled, counsel is unable to show any such document. No new or compelling grounds have been shown since the last rejection of the interim bail application.

6. In light of the foregoing, the Court is not inclined to accept the Petitioner's request. It is however made clear that in the event, the doctor certifies that the Petitioner's spouse is fit for surgery and a confirmed date of surgery is given, the Petitioner shall be at liberty to apply for interim bail before the Trial Court, which shall then be considered on its own merits after due verification of the medical record.



7. With the above directions, the present petition is disposed of along with pending application(s).

SANJEEV NARULA, J

MAY 15, 2025

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