



2025:DHC:8446



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 18.09.2025*+ **BAIL APPLN. 3023/2025****K BABU ALIAS YUSUF**

..... Petitioner

Through: Mr. Akshay Bhandari, Mr.
Anmol Sachdeva, Mr. Janak
Raj Ambavat and Mr. Kushal
Kumar, Advs.

versus

STATE GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr. Hitesh Vali, APP for the
State along with SI Suman.
Mr. M.J. Michael, Adv. for the
complainant.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J.**

1. The present application has been preferred on behalf of the applicant seeking interim bail for a period of four weeks on medical grounds, in case arising out of FIR No. 62/2020, registered at Police Station Sarita Vihar, Delhi for the commission of offence punishable under Sections 376/354/506 of the Indian Penal Code, 1860 [hereafter '*IPC*'] and Sections 6/8 of the Prevention of Children from Sexual Offences Act, 2012 [hereafter '*POCSO Act*'].

2. The background of the case is that on 12.03.2025, this Court had granted interim bail to the applicant for a period of one month,



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taking note of his medical condition as he was stated to be suffering from multiple ailments. The grant of bail was subject to the condition that upon expiry of the period of interim bail, the applicant would place on record the documents relating to the medical treatment undertaken during that period. The said interim bail was thereafter extended till 21.05.2025. The applicant then moved another application seeking further extension of interim bail by two months on the ground that his surgery, i.e., surgery for umbilical hernia, was scheduled for 03.06.2025. This Court, however, directed the applicant to surrender before the jail authorities immediately, while also directing that he would again be released on interim bail on 30.05.2025 on the same terms and conditions as earlier, and that he would surrender before the jail authorities on 15.06.2025. The applicant in fact surrendered on 16.06.2025. However, he had not undergone any surgery whatsoever during this period.

3. The learned counsel appearing for the applicant submits that the surgery scheduled for 03.06.2025 could not be conducted as no operation theatre was available on that date, and the applicant was therefore sent back by the hospital. It is argued that the applicant was granted interim bail w.e.f. 30.05.2025 on the same terms and conditions as in the order dated 12.03.2025, and he duly surrendered before the jail authorities on 16.06.2025. It is further submitted that though the applicant had travelled to Kerala, his native place, during this period, the same was only for the purpose of arranging his surgery at his own cost from a private hospital. It is also urged that



the applicant is still required to undergo evaluation for surgery by the concerned doctor, and for this purpose he has to attend the OPD; and thus, the present application be allowed.

4. The learned APP for the State, on the other hand, opposes the application on the ground that the applicant has previously misused the liberty granted to him. It is contended that *vide* order dated 20.05.2025, this Court had granted interim bail to the applicant w.e.f. 30.05.2025 specifically for undergoing surgery on 03.06.2025; however, the surgery was not conducted and instead the applicant travelled to Kerala for two weeks, effectively treating the interim bail as a license for vacation, and thus, violating the spirit of the order. It is further argued that the applicant's medical condition is neither life-threatening nor so grave that it cannot be treated in jail, and hence the present application deserves dismissal.

5. The learned counsel appearing on behalf of the victim/complainant also submits that the record clearly reflects misuse of liberty by the applicant. It is urged that although interim bail was granted specifically for surgery on 03.06.2025, the surgery did not take place, the applicant did not surrender thereafter, and instead spent two weeks in Kerala. Moreover, no medical documents regarding the alleged treatment during this period were filed. It is further contended that as per the medical reports from AIIMS and other documents, the applicant is not suffering from any life-threatening condition or ailment which cannot be adequately treated while he remains in judicial custody.



6. This Court has **heard** arguments addressed on behalf of the applicant as well as the State and the victim, and has perused the material available on record.

7. At the outset, it is relevant to take note of the medical status report of the applicant prepared by the Medical Superintendent, AIIMS Hospital, Delhi, which was filed before this Court at the time of passing the order dated 20.05.2025. The said report opined as under:

“Through proper channel

Subject: Opinion on verified documents of K. Babu

Madam

This is with reference to Disp no. 717/SHO/SVR dated 0610512025. The condition of patient Mr. K. Babu is stable. The patient needs surgery for umbilical hernia, which is an elective surgery. At present there is no urgent need for surgery or hospitalization.

Thank you.”

“**Subject:** Kindly opine the following as per your verified documents of K Babu in the aforesaid case

With reference to your letter No. FA-IVIB/20051H0sp.(MR)Misc. dated 07.05.2025, following are the answers of the questions.

Q.1 Whether the condition of aforesaid patients is stable or not as per the current medical condition?

Ans. Stable

Q.2 And if the patient's condition is critical, then what is the percentage of criticality

Ans. Not applicable

Q.3 Whether the patient need to be admitted to the hospital or not for his condition?

Ans. No

Q.4 Whether the patient need an operation related to his current medical condition?

Ans. No.”



8. Thus, the report of AIIMS had categorically mentioned that the applicant's condition was stable, not life-threatening, and that there was no immediate requirement either for hospitalization or surgery. The surgery advised was an elective one, i.e. it was a planned procedure that could be undertaken at a convenient time, rather than an emergency necessitating urgent medical intervention.

9. Yet, since the applicant had informed this Court that his surgery had been scheduled for 03.06.2025, this Court, taking a lenient view, was inclined to grant him interim bail for a limited period of 15 days to enable him to undergo the said surgery. The observations of this Court were as under:

“5. Thus, it is clear that the surgery of the present applicant/petitioner is scheduled for 03.06.2025. However, it is at the same time also mentioned that the surgery to be conducted is an elective surgery and the petitioner herein is in stable condition, which points out that he does not need hospitalisation.

6. Since the surgery of the applicant is to be conducted is not an emergency surgery and is scheduled for 03.06.2025, coupled with the fact that the applicant has been on interim bail on medical grounds, since 12.03.2025, this Court deems it appropriate to direct, considering that the medical condition of the accused having been opined to be stable, that the accused shall surrender by tomorrow i.e. 21.05.2025 before the Jail Authorities. As the surgery of the applicant is to be conducted on 03.06.2025, he shall be released on interim bail on 30.05.2025, on same terms and conditions as imposed vide order dated 12.03.2025. The applicant shall thereafter surrender before the Jail Authorities on 15.06.2025.”

10. However, the record now reveals that the surgery fixed for 03.06.2025 did not take place. Instead, the applicant did not surrender



before the jail authorities as the surgery did not take place, but chose to travel to his native place, Kerala, where he remained for about ten days. Though the applicant now states that he was exploring the option of undergoing surgery at a private hospital in Kerala and has placed a medical certificate in this regard, the fact remains that no such surgery was performed there either.

11. As already noted, the medical opinion of the doctors at AIIMS clearly states that the applicant's condition is not critical, and the proposed surgery is elective in nature. Even if not undertaken immediately, it will not result in any grave or irreversible consequence for the applicant.

12. It is also significant to note that even in the present bail application, the applicant has not disclosed any fixed date, nor has he produced documents of any hospital where the surgery has now been scheduled. Instead, he has only made a vague statement that he intends to get the surgery conducted either at AIIMS or at some private hospital at his own expense. Such a contention does not inspire confidence of this Court, particularly in light of his earlier conduct. It must also be borne in mind that the applicant has already remained on interim bail for a considerable period, i.e., for about two and a half months, yet he has failed to utilize this time for undergoing the surgery, despite repeated indulgence shown by this Court.

13. In these circumstances, this Court is of the opinion that there is no pressing or urgent medical necessity at present which would warrant the grant of further interim bail to the applicant. The surgery,



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being elective, can be scheduled and undertaken at an appropriate time, and there is no material to suggest that the medical situation in that respect cannot be managed while the applicant remains in judicial custody.

14. Thus, this Court is not inclined to grant interim bail to the applicant at this stage, and the bail application is accordingly dismissed.

15. It is, however, clarified that the applicant shall continue to be provided necessary medical treatment as per jail rules. In case a specific date of surgery is fixed, the applicant will be at liberty to move a fresh application seeking interim bail, which shall be considered on its own merits at that stage.

16. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
SEPTEMBER 18, 2025/A