



\$~Special DB-Item-1

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 600/2022**

SHADAB AHMED

..... Appellant

Through: Mr. Shivam Sharma, Advocate.
versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Prasad, SPP for the
State.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

% **01.09.2023**

CRL.M. (BAIL) 1157/2023 (for interim bail)

The present application under Section 439 of the Code of Criminal Procedure (Cr.P.C), 1973, has been instituted on behalf of Shadab Ahmed, the applicant/appellant herein, praying as follows:-

“In the light of above facts and circumstances, it is most humbly prayed before the hon’ble court to:

1. Grant interim bail to the petitioner on medical grounds for a period of not less than three months in FIR 59/2020 PS Crime branch, while his bail application under section 439 CrPCr/w 43D of the UAPA as Crl Appeal 600/2022 is pending before the hon’ble court; and/or

2. Call for entire medical record the petitioner from Jail No 13, Mandoli for proper adjudication of the present application;
and/or

3. Pass any other order or direction in the interest of justice.”

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Issue notice.

Mr. Amit Prasad, learned Special Public Prosecutor appears on advance notice on behalf of the non-applicant/State and invites our attention to the Judgment of the Hon'ble Supreme Court of India in 'State of Andhra Pradesh vs. Mohd. Hussain' reported as (2014) 1 SCC 258 and in particular, paragraph 27.2 thereof, to urge that the present application seeking the relief of interim bail, is not maintainable, before the High Court.

For the sake of completeness, the paragraph 27.2 is reproduced *in extenso* herein below:-

“27.2 And, secondly as far as Prayer (b) of the petition for clarification is concerned, it is made clear that inasmuch as the applicant is being prosecuted for the offences under the MCOC Act, 1999, as well as the Unlawful Activities (Prevention) Act, 1967, such offences are triable only by the Special Court, and therefore application for bail in such matters will have to be made before the Special Court under the NIA Act, 2008, and shall not lie before the High Court either under Section 439 or under Section 482 of the Code. The application for bail filed by the applicant in the present case is not maintainable before the High Court.”

In view of the foregoing, learned counsel appearing on behalf of Shadab Ahmed, the applicant/appellant, seeks leave to withdraw this application, with liberty to approach the Court of competent jurisdiction, in the first instance, in accordance with law and in view of the dictum of the Hon'ble Supreme Court of India in *Mohd. Hussain (Supra)*.

Leave and liberty granted.

The application is dismissed as withdrawn and disposed of accordingly.



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At request of learned counsel appearing on behalf of the appellant,
the hearing of the appeal is adjourned.

List on 15.09.2023.

A copy of this order be uploaded on the website of this Court.

SIDDHARTH MRIDUL, J

RAJNISH BHATNAGAR, J

SEPTEMBER 01, 2023/rs