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

+ **BAIL APPLN. 1762/2022, CRL.M.A. 17447/2022**

VIJAY AGRAWAL THROUGH PAROKAR Petitioner

Through: Mr. Siddharth Aggarwal, Sr.
Advocate with Mr. Arjun Dewan, Mr.
Shahryar Khan, Ms. Arshiya Ghose &
Mr. Vinayak, Advocates.

versus

DIRECTORATE OF ENFORCEMENT Respondent

Through: Mr. Zoheb Hossain, Standing Counsel
with Mr. Vivek Gurnani, Advocates
for ED alongwith Mr. Mahesh Gupta,
D.D.

CORAM:

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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06.09.2022

**CRL.M.A. 17447/2022(for early hearing and release of the applicant on
interim bail for a period of eight weeks)**

1. The instant application for interim bail is the second one that has been moved during the pendency of the regular bail application No.1762/2022 moved by the applicant/accused in ECIR/05/HIU/2018 registered under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 as amended, ('PMLA' for short).

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2. Mr. Siddharth Aggarwal, learned senior counsel for the applicant has submitted that though the regular bail application is to come up for hearing on 26th September, 2022, in view of the Medical Status Report filed by the Jail Authorities recording therein that the applicant had suffered an incident on 14th July, 2022 of fainting and frothing from mouth with numbness of his limbs, the present application has been moved on an urgent basis seeking interim bail for a period of eight weeks. It is submitted that the jail authorities would not be able to provide adequate assistance and that the applicant desired to consult and avail of treatment from the doctor who was already treating him for his neurological illnesses of Radiculopathy with HTN including the problem of nerve compression of his spine at three different points, namely, [L3-L4 L4-L5, L5-S1], till he was arrested on 14th March, 2022.

3. The learned senior counsel for the applicant submitted that if the applicant was not allowed consultation with his previous doctor, his condition may soon deteriorate and it could be life threatening. He, however, conceded that as far as the Status Report is concerned, the condition of the applicant was reported to be stable. But he also underlined that the jail authorities of their own could not treat the applicant and they had to go outside the jail to GB Pant Hospital and Safdarjung/RML hospitals to provide treatment to the applicant. Therefore, his application for interim bail be allowed.

4. Mr. Zoheb Hossain, learned standing counsel on behalf of the
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Directorate of Enforcement relying on several judgments i.e, *Asha Ram v. State of Rajasthan* [Order dated 30th January, 2017 in SLP(CrI) 6202/2016], *State through Deputy Commissioner of Police, Special Branch, Delhi v. Jaspal Singh Gill* (1984 SCC (Cri) 444), *State of U.P. v. Gayatri Prasad Prajapati* (2020 SCC OnLine SC 843), *Surjeet vs. State (Govt. of NCT of Delhi)* (2021 SCC OnLine Del 228), *Karim Morani vs. Central Bureau of Investigation* (2011 SCC OnLine Del 2967), *Rajkishor Sunnidhi Dash vs. State of Maharashtra* 2020 (SCC OnLine Bom 11261) *Akhtar Parvez vs. State of West Bengal* (2022 SCC OnLine Cal 471) & *Nasir Abdul Kadar Keval vs. State of Maharashtra* (2018 SCC OnLine Bom 1562) has submitted that the courts have consistently taken the view that when the medical condition of the under-trial in custody was stable, there was no ground to release him on interim bail, particularly in serious offences such as offences under the PMLA. Emphasis has been laid on the observations of the Supreme Court in *State of UP(supra)* to submit that the court was required to come to a conclusion that the treatment offered to the under-trial was not adequate and that he required further treatment at some particular medical institute for which it was necessary to release the under-trial on interim bail on medical grounds.

5. It was urged that in the present case, the applicant has not pointed out to any aspect of the treatment which was not satisfactory and, therefore, no ground was made out to release him on interim bail. It was submitted that in respect of the regular bail application the applicant had to meet the twin conditions prescribed under Section 45 of the PMLA Act. It was also submitted that those very considerations were also relevant while dealing



with an interim bail application. Hence, it was prayed that the application be dismissed.

6. This court has considered the submissions made by learned counsel and has also considered the Medical Report and the cited judgments. The Supreme Court in *State of UP(supra)* was dealing with an appeal against an order passed by the Allahabad High Court, Lucknow Bench granting interim bail to an accused on medical grounds for a period of two months while directing the listing of the regular bail application for hearing. Here too the regular bail application has been listed for hearing on 26th September, 2022 in which bail has been sought on the merits of the case along with the interim bail application moved on grounds of ill health. This application as noted above is the second one pleading medical grounds. The decision of the Supreme Court has a direct bearing to this case.

7. Referring back to the decision in *State of UP(supra)*, the further fact to be noted is that, in that case, the accused was facing charges in case Crime no. 29 of 2017 under Sections 376(D)/376/511/504/506 IPC read with Sections 3 and 4 of POCSO Act, Police Station Gautam Palli, District Lucknow. The present applicant is facing charges under Sections 3 and 4 of the PMLA. The two offences are not similar, except that both sets of offences are of very serious nature. The respondent/accused before the Supreme Court had claimed that he was suffering from multiple neurological ailments. The Supreme Court noted that on various occasions, the respondent/accused had been treated at King George Medical University, Lucknow as also at Sanjay Gandhi Postgraduate Institute of Medical Sciences, Lucknow, being a multi-super-speciality hospital and had also



been examined by the Medical Board there. Yet the respondent/accused was allowed interim bail.

8. In the background of these facts, the Supreme Court observed as below:

“ 15. The above report of the S.G.P.G.I.M.S., i.e., the super-speciality hospital, which was on the record as well as report of the medical board dated 10.06.2020, which was brought in the notice of the High Court have neither been considered nor referred to by the High Court in the impugned order. When the respondent was being given treatment in the super-speciality hospital, i.e., S.G.P.G.I.M.S. as recommended by K.G.M.U., we fail to see as to what were the shortcomings in the medical treatment offered to respondent, which could have been the basis for grant of interim bail on medical ground. Further, as per condition (ii) mentioned in paragraph 27, the High Court contemplated that respondent shall ordinarily reside at a place of residence, as assured, far from the place of residence of the prosecutrix and her immediate family, thus, the contemplation was that respondent shall reside at his residence. There was no satisfaction recorded by the High Court that treatment offered to respondent was not adequate and he requires any further treatment by any particular medical institute for which it is necessary to release the respondent on interim bail on medical grounds.”

(emphasis added)

9. It would therefore be appropriate to consider whether the latest Status Report filed by the Jail Superintendant reflects any short fall in the treatment being provided to him, necessitating treatment of the applicant at Indore.



10. It may bear notice that while the applicant claims to be extremely ill, he is quite satisfied with his present state of health that it would permit him to travel to Indore. Be that it as may, the Medical Report submitted on 29th July, 2022, filed along with the Status Report records the following facts: (i) Even at the time when the applicant had been taken into judicial custody at the Central Jail-07, Tihar on 21st March, 2021, he was having the medical history of LBA/ HTN/ DM2 and was advised oral medication and blood sugar and blood pressure charting for one week; (ii) Further regular treatment was being provided by the visiting Senior Resident (Medicine) and the Doctor on duty in the jail on the basis of his previous medical records; (iii) It was only on 14th July, 2022, that the applicant suffered a fall in the bathroom with frothing from the mouth and inability to walk properly; (iv) He was managed at the jail itself with injectible and was taken to the Deen Dayal Upadhyay Hospital in emergency where he was examined by the Senior Resident (Medicine) and the Orthopaedic; (v) The applicant was then referred to the higher centre RML/Safdarjung in Neurology and Cardiology Department for further management and on the very same day, he was examined by a Senior Resident (Medicine) at RML Hospital. He was advised medicines and was advised for a review in Neurology and Medicines OPD; (vi) On 26th July, 2022, the applicant was referred to GB Pant Cardiology and Neurology Department. The Cardiologist at GB Hospital advised oral medications and 2D ECHO and Neurological Opinion. The 2D ECHO was taken on 28th July, 2022 which showed the heart activity as normal; (vii) The Neurologist at GB Pant Hospital advised the applicant



to avoid weight lifting/bending forward and also advised oral medication and neurosurgery evaluation; (viii) The report also records that at present, the general condition of the applicant was stable, though with persistent symptoms of shortness of breath and complaints of numbness in lower limbs for which he was being given treatment.

11. From the above Status Report, it is amply clear that even the incident of 14th July, 2022 was dealt with promptly and effectively by the jail authorities and neither the doctors at DDU Hospital nor at the RML Hospital considered his condition to be of such a serious nature to call for hospitalisation. They rather advised review in Neurology and Medicines OPD. The Neurologist at GB Pant Hospital has advised neurosurgery evaluation, which it appears is yet to be carried out.

12. There is nothing in the Status Report which would suggest to this Court that treatment was unsatisfactory or inadequate. No case has been revealed justifying directions for treatment of the applicant at any other hospital/medical institute. The documents that have been placed on the record by the applicant, are of doctors at Indore and in the application, he has sought interim bail to get himself neurologically evaluated in his “home town Indore Madhya Pradesh”. While not doubting the capabilities of the doctors at Indore nor the standard of medical care available at Indore, it would be absurd to hold that the otherwise able doctors at GB Pant Cardiology and Neurology Departments would have a lower degree of skill than the doctors at Indore, to evaluate the condition of the applicant and prescribe adequate treatment.

13. The present condition of the applicant is also reported to be stable.



14. No ground whatsoever has been made out for grant of interim bail. Accordingly, the present application is dismissed.

15. Nothing in this order, however, will have a bearing on the consideration of the grounds taken in the main bail application or the pending application.

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16. The jail authorities are directed to, without delay, obtain the neurological evaluation of the applicant from the GB Pant Hospital and to also file a copy of that evaluation before this Court, so that it would be available for consideration on the date fixed for hearing i.e.26th September, 2022.

17. The copy of this order be sent to the jail authorities for compliance.

18. The order be uploaded on the website forthwith.

ASHA MENON, J

SEPTEMBER 6, 2022/ak