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

+ BAIL APPLN. 1878/2021 & CRL.M(BAIL). 840/2021

ASHOK KUMAR MISHRA Petitioner
Through: Mr. N. Hariharan, Sr. Adv.
assisted by Mr. Murari Tiwari, Siddharth S.
Yadav, Mr. Samarth K. Luthra, Ms. Akriti
Gupta Mittal and Mr. Rahul Kumar, Advs.

versus

DIRECTORATE OF ENFORCEMENT Respondent
Through: Mr. Nitesh Rana, SPP with Mr.
Ali Khan, Adv. for ED

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)

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03.07.2021

(Video-Conferencing)

CRL.M(BAIL). 840/2021 in BAIL APPLN. 1878/2021

1. The applicant, who is in custody on the allegation of having committed offences under Section 13(2) read with Section 13(1)(a) of the Prevention of Corruption Asct, 1947 and Section 409 read with Section 120-B of the Indian Penal Code, has applied for interim bail on medical grounds.

2. Consequent to issuance of notice on this application on 21st June, 2021, a medical report, from the Senior Medical Officer, Central Jail No. 7, Tihar, dated 24th June, 2021 was filed before this Court. The condition of the applicant, as reflected in the said medical report,

appears to be considerably serious. Some extracts from the report may be usefully reproduced thus:

*“The Visiting Jail Senior Resident Medicine examined and advised for Charting of *blood pressure as well as blood sugar level were found to be above acceptable biological reference limits in the various periods evaluated.* Then advised for injectable medicines for control higher blood pressure, tablets form with increase doses and antithrombotic (Blood Thinners) medicines for Coronary Artery Disease, Injection insulin Humalog for Insulin dependent Diabetes Mellitus-2. Nebulisation with Bronchodilator, Mucolytics and Steroids in CJ-07 Dispensary is being given twice daily along with inhalers and nasal spray. *Inmate patient is being provided symptomatic treatment from jail dispensary but his symptoms and levels are not in control.* His referral to a higher centre to be done as soon as current restrictions on inmate movements to outside hospitals *due to high risk of getting COVID-19 infection and for developing serious illness from COVID-19 due to presence of comorbidities of Diabetes Mellitus and Uncontrolled Hypertension.* Inmate patient has been advised COVID precautions due to nature of his multiple comorbidities.*

HBAIC as on 07/06/2021 was 9.10%, where as normal biological reference interval is 4.8 to 5.9%. Above 8% the risk of Microvascular complications associated with diabetes mellitus may increase in case of diabetes associated with Chronic Hypertension, as age grows. Inmate patient have multiple episodes of severe breathlessness in recent days. Inmate patient has been prescribed medications, including inhalers to symptomatically use for treatment. Regular nebulisation with bronchodilator, mucolytics and steroids is being given. Inmate patient has been advised COVID precautions due to nature of his multiple comorbidities.

Inmate patient was reviewed and monitored by visiting jail Senior Resident Orthopaedics and last reviewed on 22/06/2021 for the complaint of Severe Lower Back Ache, pain in right and left shoulder, pain in bilateral knee, pain in great toe. severe low back pain radiating to bilateral lower limbs, weakness, numbness and tingling sensation in bilateral lower limbs, and difficult in carrying routine activities and requiring assistance for routine activities. He is being

provided symptomatic treatment from jail dispensary *but his symptoms are aggravating and no improvement is reported.* He has been provided appropriately prescribed medications and now additionally Tab Pregabalin for the neuropathy. He has been prescribed the use of knee cap and Lumbosacral belt. He has been prescribed Physiotherapy (Diathermy) and Bed Rest including Sleeping and Sitting Support. *Currently due to COVID-19 restrictions physiotherapy is not regularly available in jail.*

The inmate patient was brought on an emergency call to central jail no.-07 dispensary on 10/06/2021 at 02:15 P.M. for the complaint left sided Chest Pain, fever, anxiety, palpitation, fainting, sweating then doctor on duty measure pulse rate high(1 12 per minutes). High blood pressure (148/130 mm of Hg) and Low SP02(92%). *Doctor on duty prescribed necessary injectable medication and oxygen inhalation and blood test of cardiac marker (Troponin t test) is positive indicating a cardiac attack.* Jail visiting Senior Resident Medicine (Copy Enclosed) also examined the inmate patient and advised for oxygen inhalation, anticoagulant medication and diagnosed a case of Angina Pectoris, further advised for admitted in central jail no.-07 M.I. Room for close monitoring. *Also the presence of comorbidities of uncontrolled diabetes mellitus -2 ,hypertension ,coronary artery disease and COPD in the inmate which puts him at higher risk for getting COVID-19 and for developing serious illness from COVID-19.*

Previously the inmate patient came in emergency condition in CJ-07 MI Room for the treatment of the acute exacerbation of Bronchial Asthma (Chronic Obstructive Pulmonary Disease).

At present, the inmate patient is a known case of frequent episodes of severe chest pain, palpitation and Troponin T test positive indicates a possible cardiac attack episodes which was controlled by giving antithrombotics agents. Further cardiology review needs to be done in higher centre on urgent basis to avoid any serious complications and which is not possible within the central jail no.07 dispensary and central jail hospital.

The inmate patient still admitted in cj-07 M.I. Room since 10/06/2021 *for severe persistent left sided chest pain*, elevated levels of blood sugar and blood pressure even after medication with difficulties in breathing. Further on 22/06/2021 afternoon inmate patient was having an episode of uneasiness palpitation, stress then doctor on duty evaluated and checked the vitals at that time and provided appropriate medication. The inmate patient's vital parameter levels are at a critically elevated, along with multiple comorbidities as well cardiac ailments needs to be actively monitored till the levels stabilize .”

(Emphasis supplied)

3. A plain reading of the afore-extracted passages from the medical report dated 24th June, 2021 reveals that the condition of the applicant is considerably serious and that the jail authorities do not have the wherewithal to extend, to him, the necessary treatment.

4. This Court deemed it appropriate, nevertheless, to call for a report from the government medical hospital, whereupon the applicant was seen by the authorities in the Ram Manohar Lohiya Hospital, who have also tendered their opinion, resulting in a second medical report dated 30th June, 2021, paras 1 to 3 of which read thus

“1. The inmate patient was reviewed in Medicine department by Dr. K Sai Samarth (P G Resident), Dr. Pooja Rani(MD Medicine, Senior Resident) (enclosed copy of review prescription - Annexure 2),
Finding SP02-98%, respiratory system- B/L breath sound + except wheeze in B/L ISA(Inferior Segmental Area),Chest x-ray(p/a view),diabetic diet, B.P. and R.B.S. Monitoring, Life style modification, sign of hypoglycaemia explained and review with report.

2. The inmate patient was reviewed in Cardiology department by Dr. Aseem Basha M (Assistant Professor) (enclosed copy of review prescription Annexure 3) ,finding: Pulse rate-72/min. Blood Pressure- 144/88 mm of hg, CVS-

S1S2 Normal, ECG- normal R wave progression, advised medication and plan for Coronary Angiography.

3. The inmate patient was reviewed by orthopaedic department by Dr. Ankush (M.S., Senior Resident), finding: SLR(Straight Leg Raise Test) right-60 degree, left-90 degree and sensory loss over L4-L5 dermatomes., prescribed medication and plan for MRI L.S. Spine. (Annexure 4)

The inmate patient currently admitted in cj-07 MI Room, his vital status of today 30/06/2021 at 1:30 P.M. ,Temp — 99.0 °F, Blood Pressure- 142/88 mmHg, Pulse Rate- 92/min, Respiratory rate- 20/min, Spo2-98%”

5. Mr. Nitesh Rana, learned SPP for the respondent, submits that, in the second report dated 30th June, 2021, the jail authorities have not expressed any inability to extend medical treatment to the applicant.

6. It is not possible for this Court to entirely ignore the medical report dated 24th June, 2021. Both the medical reports, seen in conjunction, reveal that the medical condition of the applicant is not satisfactory. Nor can the court shut its eyes to the helplessness expressed by the jail authorities in the medical report dated 24th June, 2021 in extending requisite therapeutic assistance to the applicant. Perhaps of most serious concern would be the fact that the applicant is stated to have had a cardiac attack as recently as on 10th June, 2021.

7. Mr. N. Hariharan, learned Senior Counsel for the applicant, submits that the present application is being filed, not as a means to escape from the confines of the jail, but only because serious concerns arise from the medical reports which are forthcoming in the present case and that, in order to avoid any exacerbation of the applicant's

condition or any possible cardiac arrest – which, as per the medical report dated 24th June, 2021, did actually take place at least on one occasion – the applicant ought to be extended the benefit of having his condition properly appraised and, if necessary, appropriate medical or surgical therapy administered to him. For this purpose, Mr. Hariharan submits that he is only at present seeking interim bail for two weeks, whereafter he undertakes to return to custody. He submits that, in fact, a co-accused in the same office was extended interim bail on medical grounds by the learned trial court on 16th April, 2021, initially for a period of 30 days, and continues to remain outside the jail.

8. On a cumulative reading of the aforesaid medical reports, dated 24th June, 2021 and 30th June, 2021, especially keeping in view the observations, in the passages extracted from the medical report dated 24th June, 2021, indicates that the applicant had, in fact, suffered a cardiac attack in jail, I deem it appropriate to grant interim bail to the applicant, solely in order to enable him to be examined and treated, for a period of 14 days from the date of his release, on furnishing of a personal bond of ₹ 2,00,000/- with one surety of like amount to the satisfaction of the Jail Superintendent.

9. The applicant shall provide his own mobile number as well as the mobile number of two other persons, who may be contacted in the alternative, to the Jail Superintendent before he is released. All the mobile numbers would remain active and operational during the period of interim bail of the applicant. The applicant is also directed to telephonically contact the IO on a daily basis.

10. The applicant shall also ensure that he does not interact with any of the other co-accused persons or other persons named in the present case and, obviously, shall not impede or inhibit the investigation or the inquiry process in this matter.

11. Any violation of these directions shall result, *ipso facto*, in withdrawal of the facility of interim bail granted today. The applicant shall surrender to custody immediately on the expiry of 14 days from the date of his release.

12. With the aforesaid directions, this application stands disposed of.

13. The Registry is directed to e-mail a copy of this order to Jail Superintendent, Tihar as well as to learned Counsel for the parties as soon as it is ready.

14. Mr. Nitesh Rana, learned SPP for the respondent, undertakes to inform the respondent of the order passed today.

C. HARI SHANKAR, J.
(VACATION JUDGE)

JULY 3, 2021

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