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

+ BAIL APPLN. 2727/2023

AMIT ARORA

..... Petitioner

Through: Mr. Vikas Pahwa, Sr. Adv. with Mr. Prabhav Ralli, Ms. Namisha Jain, Mr. Kushagra Sharma, Mr. Aditya Shukla, Mr. Ravikant, Yadav, Advs.

versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Zoheb Hossain, learned Special counsel for ED with Mr. Vivek Gurnani, Mr. Kartik Sabharwal, Advs.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

06.09.2023

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CRL.M.A. 24353/2023 (exemption)

Exemption is allowed subject to all just exceptions.

CRL.M.(BAIL) 1265/2023 in BAIL APPLN. 2727/2023

1. The present bail application has been moved with prayer for grant of an interim bail to the petitioner in ECIR No. HIU-II/14/2022, dated 22.08.2022, registered by the Enforcement Directorate, for a period of 12 weeks in view of the medical condition of the petitioner.
2. Mr. Vikas Pahwa, learned senior counsel for the petitioner submits that the petitioner had been discharged from the Fortis Memorial Research Institute on 31.08.2023 wherein he has undergone Laparoscopic Sleeve Gastrectomy under GIA on 18.08.2023. At the


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time of discharge , the doctors have prescribed following medications and medical advice:

- Ini. Fondaparinux 0.5ml (2.5mg) sub cutaneous once a day at 6pm for 7 days till 07.09.2023
- Cap. Razo I cap once a day before breakfast for 30 days
- Syp. Crocin 10 ml as and when required
- Syp. Duphalac Bulk 30ml at bed time for 5 days
- Clear liquid diet 250ml every 2 hourly till 01.09.2023
- Phase 2 pureed diet 6- 7 times a clay (as per list provided) x 14 days
- Tab. Telma -H80mg once a day in the morning
- Tab. Inzit 8mg at bed time
- Tab. Metolar XR 50 mg twice a day once in the morning and once in at night

ALL TABLETS TO BE CRUSHED AND DISSOLVED IN WATER BEFORE TAKING ORALLY.

- Liquid diet (very low calorie) 250 ml every 2 hourly- slowly sipping for next 1 day
- Avoid bending and squatting
- Monitoring & charting of capillary blood glucose daily
- Mobilization of patient as advised. Brisk walks allowed upto 1km/day in the 1st week and increase gradually to 3 Km/day in 3 weeks
- Proper hygiene and cleanliness of surgical wounds to be maintained



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- Continue Incentive Spirometry as advised
 - Strict charting of oral intake and urine output
 - Avoid lifting heavy weights for 3 weeks
 - Regular monitoring of blood pressure/blood glucose.
 - Watch for any abnormal GI bleed- Malena, Hematemesis.
 - Monitor for signs and symptoms of hypoglycemia, hyperglycemia, abdominal pain, respiratory, distress, calf pain (DVT), fever and wound infection.
 - Diet progression chart has been provided to the patient
 - All investigations have been handed over to the patient
 - All medications have been explained in details to the patient
3. As a follow up advice, the patient has been asked to report in OPD on 07.09.2023 with prior appointment.
4. Learned senior counsel for the petitioner submits that in view of the various medical condition of the petitioner, he may be admitted to interim bail for a period of three months for post-operative care.
5. Issue notice.
6. Sh. Zoheb Hossain, learned Special counsel for ED has accepted the notice.
7. Sh. Zoheb Hossain, learned Special counsel, submits that the petitioner was arrested on 29.11.2022 and till date, he has remained out of the jail for around 164 days which includes period of interim bail as well as the hospitalization. Sh. Zoheb Hossain, learned Special



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- counsel, submits that the present surgery was also an elective surgery which the petitioner has undergone while being on interim bail.
8. In this regard both the learned counsels have referred to the order of the learned Special Judge dated 11.08.2023 as modified vide order dated 14.08.2023 and 25.08.2023 and 31.08.2023.
 9. Learned Special counsel for ED has also invited the attention of the Court to the order passed by this Court on 17.08.2023 wherein the request of the petitioner for extension of date of surrender of his interim bail which was fixed at that time as 19.08.2023 was declined by this Court.
 10. This Court has time and again held; firstly, every person suffering from a medical ailment is entitled to an effective and appropriate medical treatment and secondly, the prosecution is also entitled for ensuring that the interim bail does not become a shortcut method to circumvent the rigors of the special legislation as Section 45 in the present case. Learned Special Judge in the present case has dealt in detail with the method and manner in which the petitioner got himself admitted in Fortis Hospital and underwent the present surgery. However, this court does not want to express any opinion with regards to that and will only say that much fairness was required from the petitioner.
 11. The Courts function on the golden principle of criminal jurisprudence that detention during the period of investigation and trial cannot be a punitive measure. If a person is sick, he should be given appropriate medical treatment in order to at least enable him to face the trial in accordance with the law. The advise given in the discharge summary,


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to the mind of this Court, cannot be fulfilled while being lodged in Tihar Jail. However, this does not mean that Tihar Jail or the infrastructure therein is lacking in any manner. However, the Jail infrastructure has its own limitations and the discharge summary indicates that for a period of at least four weeks, the petitioner requires special nursing care.

12. However, this Court reiterates its earlier opinion that there is no ground for extension of interim bail. Thus, taking into the account of the totality of the facts and circumstances, let the petitioner be admitted in RML Hospital tomorrow morning i.e. 07.09.2023 by 12.00 PM in custody for the period of four weeks from the date of shifting tomorrow i.e. 07.09.2023 till 07.10.2023. The petitioner shall remain in custody of the Superintendent Jail at RML Hospital. The Superintendent Jail shall deploy appropriate security guards. Medical Superintendent, RML Hospital is requested to provide a private room to the petitioner so as to avoid any inconvenience to the other patients. The petitioner shall bear all the expenses of the treatment, nursing care, room charges and other charges. During this period, the petitioner's wife and children may meet the petitioner from 11.00 AM to 12.00 PM (morning) and 4.00 PM to 5.00 PM (evening). The petitioner shall not be entitled to use any phone nor shall the members of his family be allowed to take any phone inside. The petitioner shall be allowed to have the diet as prescribed in the discharge summary. Medical Superintendent, RML is also requested to constitute a medical board and get the petitioner examined regularly and send a


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weekly report to this Court with copy to the ED and the petitioner.

13. Copy of this order be sent to the Medical Superintendent, RML Hospital and Superintendent, Tihar Jail.

14. In view of the above, the present application stands disposed of.

15. Copy of this order be given *dasti* under the signature of the Court Master.


DINESH KUMAR SHARMA, J

SEPTEMBER 6, 2023/Pallavi


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