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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Order: 15 March, 2024

+ BAIL APPLN.1913/2022, CRL.M.A.19591/2022, 21840/2022, 25240/2022, 4451/2023, 17055/2023, 20184/2023, 20185/2023, 22425/2023, **5596/2024, 7039/2024 and 7040/2024.**

RAMESH CHANDRA

..... Petitioner

Through: Mr. Vishal Gosain, Mr. Anuroop Chakravarti and Mr. Pravir Singh, Advocates.

versus

THE DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Zoheb Hossain, Special Counsel with Mr. Vivek Gurnani, Mr. Kartik Sabharwal and Mr. Abhipriya Rai, Advocates for E.D.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

ANOOP KUMAR MENDIRATTA, J.

CRL.M.A.7040/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.A.5596/2024 and 7039/2024

1. CRL.M.A.5596/2024 under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner



seeking extension of interim bail granted vide order dated 28.07.2022 on medical grounds with permission to file on record additional medical documents and facts. Also, CRL.M.A.7039/2024 under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for placing on record additional medical documents and facts.

2. Learned counsel for the petitioner submits that apart from the application for regular bail, an application for interim bail was preferred on behalf of the petitioner, whereby interim bail granted vide order dated 28.07.2022 on medical grounds has continued till date. Presently CRL.M.A.Nos.5596/2024 and 7039/2024 are pending consideration for extension of interim bail on medical grounds.

3. It is pointed out that after taking detailed note of the ailments suffered by the petitioner including the report from AIIMS, the interim bail was initially granted vide order dated 28.07.2022 and has continued since there has been no improvement in the condition of the petitioner. It is urged that petitioner being aged above 85 years forms a distinct class and even the report of Medical Board constituted by AIIMS, on the orders of this Court, reflects the poor condition of health of the petitioner. Learned Counsel further emphasizes that petitioner requires continuous monitoring and treatment which is not feasible in Jail. It is also pointed out that vide order dated 28.07.2022, while admitting the petitioner to interim bail, conditions were imposed regarding his confinement to home, except for the purpose of attending the Court hearings.

4. Reliance is further placed upon *Dr. P. Varavara Rao v. National*



Investigation Agency, (2022) SCC OnLine SC 1004, *Devki Nandan Garg v. Directorate of Enforcement*, (2022) SCC OnLine Del 3086, *Anil Vasant Rao Deshmukh v. State of Maharashtra*, (2022) SCC OnLine Bom 3150, *Directorate of Enforcement v. Anil Vasant Rao Deshmukh*, SLP (Criminal) No. 32078/2022 decided on 11.10.2022, *Pranjil Batra v. Directorate of Enforcement*, CRM-M-23705/2022 (O&M) decided on 04.11.2022 by Hon'ble High Court of Punjab and Haryana, *Bhupinder Singh v. Enforcement Directorate*, (2022) SCC OnLine P&H 1564, *Dr. P. V. Varavara Rao v. National Investigating Agency & Anr.*, (2021) SCC OnLine Bom 230, *Kewal Krishan Kumar v. Directorate of Enforcement*, (2023) SCC OnLine Del 1547, *P. Sarath Chandra Reddy v. Directorate of Enforcement*, (2023) SCC OnLine Del 2635 and *Lalit Goyal v. Directorate of Enforcement & Anr.*, CRM-M-7039-2022 (O&M) decided by Hon'ble High Court Punjab and Haryana.

5. On the other hand, application for interim bail is vehemently opposed by learned counsel for the respondent. Attention of this Court is drawn to order dated 27.09.2023, whereby Medical Board constituted vide order dated 18.09.2023 was directed to give opinion as to whether the condition of the accused/petitioner is of such a nature that it cannot be treated in jail. Referring to the same, it is pointed out that as per report dated 28.11.2023, the Medical Board constituted by AIIMS consisting of Doctors from Deptt. of Geriatric Medicine, Deptt. of Neurology, Deptt. of Cardiology, Deptt. of Psychiatry, Deptt. of Orthopaedics, Deptt. of Urology and Department of Hospital Administration, opined "*The Board opines that the present assessment is suggestive of subjective cognitive decline with risk of fall and*



he can be treated in jail but he should be monitored for fall and its related complications.”

6. Based upon the same, it is contended by learned counsel for the respondent that sickness is not life endangering and treatment of the petitioner is feasible in jail, subject to monitoring for fall. It is further submitted that petitioner can be referred to the specialist hospitals, if so required, in terms of the jail referral policy.

Reliance is further placed upon *Vijay Madanlal Chaudhary v. Union of India*, 2022 SCC OnLine SC 929, *Union of India v. Rattan Mallik*, (2009) 2 SCC 624, *Asha Ram v. State of Rajasthan*, SLP (Crl) 6202/2016, *Surjeet v. State (Govt. of NCT of Delhi)*, 2021 SCC OnLine Del 228, *Karim Morani v. Central Bureau of Investigation*, 2011 SCC OnLine Del 2967, *Rajkishor Sunnidhi Dash v. State of Maharashtra*, 2020 SCC OnLine Bom 11261, *Akhtar Parvez v. State of West Bengal*, 2022 SCC OnLine Cal 471, *Nasir Abdul Kadar Keval v. State of Maharashtra*, 2018 SCC OnLine Bom 1562, *Directorate of Enforcement v. Raj Singh Gehlot*, CRL.M.C.4711/2022, *State v. Jaspal Singh Gill*, (1984) 3 SCC 555, *State of U.P. v. Gayatri Prasad Prajapati*, 2020 SCC OnLine SC 843, *Mahendra Manilal Shah and Etc. v. Rashmikant Mansukhai & Anr.*, (2009) SCC OnLine Bom 2095, *Fazal Nawaz Jung and Anr v. State of Hyderabad*, (1951) SCC OnLine Hyd 60, *State v. Gadadhar Baral*, (1988) SCC OnLine Ori 281, *Pawan Alias Tamatar v. Ram Prakash Pandey and Anr.*, (2002) 9 SCC166, *Surinder Kairam & Anr v. State*, (2002) SCC OnLine Del 920, *Athar Pervez v. State*, 2016 SCC OnLine Del 6662, *Sanjay Jain v. Enforcement Directorate*, BAIL APPLN. 3807/2022, *Raj*



Singh Gehlot v. ED, SLP (Crl) 9304/2022, ED v. Kapil Wadhawan, in Criminal Appeal No.701/2020, Sameer Mahendru v. ED, BAIL APPLN. 1343/2022, Sameer Mahendru v. ED passed by Hon'ble Supreme Court, State v. Sardool Singh and Anr., (1975) SCC OnLine J&K 27, Sridhar Vandayar & Anr v. the State, (2000) SCC OnLine Mad 45 and Parle Agro Private Limited v. Commissioner of Commercial Taxes, Trivandrum, (2017) 7 SCC 540.

7. I have given considered thought to the contentions raised.

Petitioner, who was one of the Directors of Unitech Limited, is involved in serious offences, involving diversion of funds to the tune of about Rs.5,826 crore belonging to home buyers, who stand duped and are shelter less. The grant of bail is subject to rigors of Section 45 of PMLA, 2002 but may be considered on medical grounds under the first Proviso to Section 45 of the PMLA, 2002 on satisfaction that necessary circumstances exist warranting exercise of the discretion guided by the principles of law. The sickness has to be serious and life threatening and treatment required is to be specialized which cannot ordinarily be provided in the Jail Hospital or in custody. No straitjacket formula or parameters can be listed in this regard but each case needs to be examined in the light of medical reports and condition of the accused. Further, apart from old age, the ailment should be of a nature which incapacitates a person to perform his routine activities.

8. Petitioner has been granted the benefit of interim bail on medical grounds since 28.07.2022 which has continued from time to time till date for over a period of one and a half years. It needs to be assessed if the ailment suffered by the petitioner is of such a nature that it cannot be treated while



keeping him in custody.

As per medical opinion given by the Medical Board consisting of Specialists in different disciplines from AIIMS, the treatment of the petitioner is feasible in Jail Hospital, subject to necessary steps being taken for risk of fall, due to cognitive decline. In view of medical opinion, the petitioner cannot claim bail as a matter of right for treatment only at a specialized hospital of his choice. For purpose of taking note of concerns as expressed in medical opinion, Superintendent Jail can be duly directed to ensure the provision of requisite medical treatment and facilities in accordance with jail rules, at the jail hospital to ensure that the life of the petitioner is not imperiled in any manner.

In the facts and circumstances, petitioner is directed to surrender before the Superintendent Jail on 16.03.2024 and interim bail is extended till then on the same terms and conditions.

Superintendent Jail is further directed to ensure that in case of any aggravation of medical condition of petitioner or if the circumstances so warrant, petitioner shall be immediately referred to G.B. Pant Hospital or any other specialized government hospital for necessary treatment, ensuring the provision of necessary medical facilities as per jail rules. Also, in view of decline of cognitive facilities, appropriate steps shall be taken as per medical advice for ensuring proper medication to the petitioner. Further, petitioner shall be evaluated from time to time for continuity of medical treatment and at least twice a week.

Applications are accordingly disposed of.

List application for regular bail on 15.04.2024.



2024 : DHC : 2080



A copy of this order be forwarded to Superintendent Jail for information and compliance.

(ANOOP KUMAR MENDIRATTA)
JUDGE

MARCH 15, 2024/R/sd