

CNR No. DLNT01-006875-2021

IA No. 7/2022

Sessions No.436/2021

FIR No.218/2021

P.S Crime Branch North

State Vs. Sushil Kumar etc(interim bail of Subhash)

U/s-

302/307/308/364/365/452/323/342/188/269/147/148/149/506(II)/392/394/397/
411/201/109/120B/34 IPC & u/s 25(1)(B),27(1) Arms Act

12.01.2022

As per directions of Hon'ble High Court vide order No. 896/RG/DHC/2021 dated 30/12/2021 and subsequent order of Id Principal District & Sessions Judge, North District, Rohini Courts, Delhi bearing No. 39933-39979/Judl/North/Covid/2021 dated 31.12.2021, all the Judicial Officers shall hold their Courts through virtual mode only w.e.f 03/01/2022 till 15/01/2022.

This application for **grant of interim bail** for a period of four weeks u/s 439 Cr.P.C, moved on behalf of applicant/accused **Subhash** is placed before me since the regular matter is pending before me. The same is taken-up through video-conferencing via CISCO Webex app., having meeting ID No. **1761575605**. The official email ID of this Court is reader.asj04north@gmail.com.

Present in the Court: None for parties.

Present through Webex: Sh. Atul Srivastava & Sh. Sanjay Jindal, Id Additonal P.Ps for State.

Sh. P. Piyush, Id counsel for accused Subhash.

Sh. Nitin Vashist, Id counsel for complainant/father of deceased.

Sh. Aakash Sethi, Id counsel for injured/Sh. Jai Bhagwan @ Sonu.

Inspector Mangesh Tyagi, IO of the case.

It is submitted by Id counsel for applicant/accused Subhash that the present application has been moved on behalf of the applicant/accused on the ground of medical condition of wife of accused Subhash. It is submitted by Id counsel for applicant/accused that wife of the accused namely Mrs. Neeru Chauhan met with an accident on 24.12.2021, when she was driving a two wheeler, due to which she suffered injuries over the lower limbs. It is further submitted that wife of the accused is having sever knee pain on account of the said accident. It is further submitted that wife of the applicant/accused is getting treatment from Bhagwan Mahavir Hospital, Pitampura, Delhi. It is further submitted that wife of the accused is bedridden and is under severe pain from almost last two weeks and she is not in a position to take care of

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herself and her two minor children. It is further submitted that there is nobody in the house to take the wife of the accused to hospital for treatment and physiotherapy. It is further submitted that father of the applicant expired in the year 1998, his mother is senior citizen and aged about 64-65 years, who is also suffering from various old aged ailments and low vision. He has further submitted that brother of the accused namely Kaptan is a farmer, who is residing with his family at Jahjjar, Haryana and he has no concern with the applicant and his family because accused got married with a girl not belonging to his cast. It is further submitted by him that wife of the accused is facing many difficulties and prayed that presence of the accused is required to take care of his wife and minor children and prayed that he may be granted interim bail at least for a period of four weeks, so that he can take care of his wife and children during the hour of their need. It is further submitted by him that as per the X-ray report of the wife of the accused, it is clear that she is suffering from problem.

Reply of the bail application has been received, wherein it is mentioned that mother of the accused namely Smt. Roshni Devi is also residing with wife of the accused and she is quite able to take care of her. It is further mentioned in the application that brother of accused Subhash namely Kaptan and his wife can also take care of wife of the accused. It is further mentioned in the application that accused is also having his father-in-law namely Rakesh Kumar and two brother-in-laws namely Manish & Himanshu, who are residing at Nihal Vihar, Delhi and are also able to look after the wife of the accused.

Ld Regular Additional P.P for State assisted by Sh. Atul Srivastava, P.P for State have opposed the interim bail application. It is submitted by Sh.

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Atul Srivastava that applicant/accused has not shown any plausible ground for grant of interim bail to the accused. It is further submitted by him that she has been only advised rest and it is not a case where she had undergone any major surgery qua which special care is need to her. He has further submitted that in the application it is mentioned on behalf of the accused that his mother is unable to do anything due to her old age and poor vision, but it is surprising that mother of the accused is parokar of the accused and present application has been moved by her only, which is means she is able to do things. It is further submitted by him that vide order dated 28.09.2021, this Court has already gave observations that victim and accused persons are from same fraternity and locality and there is apprehension of life of the accused persons also due to enimity and hence the present application may be dismissed.

It is also submitted by Id regular Additional P.P for State that present application may be dismissed since at this stage the possibility of influencing or threatening the witnesses are very much there.

It is submitted by Id counsel Sh. Nitin Vashisht that present applicant/accused has actively participated in the offence in question and role of the present accused is clearly mentioned in page No. 145 & 146 of the charge sheet. He has further submitted that in view of the role of the applicant coupled with nature of offence, the present application may be dismissed.

It is submitted by Sh. Aakash Sethi, that there is no plausible ground for grant of interim bail to this accused since his wife has not gone

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through any major surgery and has only been advised rest.

IO of the case has also submitted that at this stage, the possibility of threatening or influencing the witnesses is very much there and submitted that interim bail may not be granted to the applicant/accused.

Heard. The present application for grant of interim bail has been moved on the ground of medical condition of the wife of the accused Subhash. As per the medical documents of wife of the accused Subhash, issued by Bhagwan Mahavir Hospital, Pitampura, dated 24.12.2021, Smt. Neeru has been only advised bed rest for two weeks only and there is no mention about any serious injury suffered by her or any major surgery advised to her. As per para No. 9 of the application the wife of the accused herself went to the hospital after she got injuries and her condition is not so serious that she can not do anything. In this case prosecution has relied upon the video clipping of the incident in question, wherein the present accused Subhash is clearly seen beating deceased Sagar and injured Jaibhagwan @ Sonu with a Hockey. Even otherwise the accused persons and victims are from same fraternity and locality and there is apprehension of life of the present applicant/accused also due to his role in the incident in question. Further the submissions of Id Additional P.Ps for State as well as the IO of the case that possibility of threatening or influencing the witnesses is very much there at this stage is acceptable at this stage. Accordingly in view of nature and gravity of offence, I do not find it a fit case for grant of interim bail to the applicant hence the present application for grant of interim bail is dismissed. The application is disposed of accordingly. **Let copy of this order be sent on the email/ whatsapp of the Id. Counsel for the parties.**

(Shivaji Anand)

Addl. Sessions Judge: 04 (North)

Rohini Courts: Delhi:12/01/2022(M)