

State Vs. Deepak @ Milkha
CNR No. DLCT01-006641-2023
SC No. 297/2023
FIR No. 74/23
P.S. Sadar Bazar

01.08.2024

Present : Mr. M. A. Khan, Ld. Addl. PP (substitute) for the State.
Mr. J. S. Mishra, Ld. Chief Legal Aid Defence Counsel for the accused, namely, Deepak @ Milkha.

ORDER

1. The present application has been filed on behalf of the applicant, namely, Deepak @ Milkha (hereinafter referred to as the “***applicant/accused***”), in terms of provisions under Section 439 of the Code of Criminal Procedure, 1973(*hereinafter referred to as ‘Cr.P.C.’*)/Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (*hereinafter referred to as ‘BNSS’*), seeking interim bail for a period of twenty one days to enable the applicant to enable him to be a part of last sacraments of his mother, who is stated to have left for heavenly abode on 30.06.2024.

2. Learned Counsel for the applicant submitted that the applicant’s mother has left for heavenly abode on 30.06.2024 and that the applicant desires to participate and perform her last sacraments. Ld. Counsel further submitted that the applicant is the only son of the deceased and he wishes to be part of her last sacraments which need to be performed by a son only. It was further submitted that except the applicant, there is no other adherent who can fulfill the last sacraments. Even otherwise, Ld. Counsel submitted that being the only son of the deceased, his presence is necessary for ceremony. As per the Ld. Counsel, the applicant has been in judicial custody for quite some time,

without there being any chance of conclusion of trial anytime in near future. It was further submitted that since the investigation in the instant case has already concluded, no useful purpose would be served in keeping the applicant in continued detention. Accordingly, Ld. Counsel submitted that present application may be allowed, in the interest of justice.

3. *Per contra*, Ld. (substitute) Addl. PP for the State contended that the applicant is actively involved in the commission of offence. It was further submitted that the applicant is involved in heinous case and there is a possibility of applicant fleeing from justice and jumping bail, if the said concession is granted by this Court. Even otherwise, as per Ld. Addl. PP for the State, this Court had already granted bail to the applicant/accused vide its order dated 08.07.2024 on the ground of demise of his mother and no further reasons are forthcoming for granting any further relief in favour of the applicant. Accordingly, Ld. Addl. PP for the State prayed that the present application may be dismissed.

4. The arguments of Ld. counsel for applicant and that of Ld. Addl. PP for the State, heard as well as case record(s) have been thoroughly perused.

5. It is outrightly observed from a perusal of the report dated 28.07.2024, filed by SI Lalit Kumar that the factum of demise of Nirmala *i.e.* mother of the applicant, namely, Deepak @ Milkha on 30.06.2024 stands verified. Further, in the said report it is specifically noted as under;

“...In this connection, it is submitted that his mother namely Nirmala has expired on 30.06.2024 and her Tehrahi has been conducted on 12.07.2024. Accused had also filed interim bail application on

the same ground before this Hon'ble Court for 06.07.2024.

It is further submitted that Rajesh (Father of the accused) had already expired and accused has three sisters namely Pooja (Age-24 yrs), Neha (Age-22 yrs) and Payal (Age-14 yrs) in his family. Pooja and Neha are married. Pooja resides at Punjab and Neha resides at Sultanpuri, Delhi. Payal resides at Motia Khan, paharganj, Delhi, with her uncle."

6. Notably, it is observed from a perusal of above, that the applicant's mother had expired on 30.06.2024 and her *tehravi* had already been conducted on 12.07.2024. Further, it is pertinent to note here that the applicant had moved an application for grant of interim bail on the same ground and this Court was pleased to grant interim bail to the applicant for a period of two days *w.e.f.* 11.07.2024 till 12.07.2024, to perform the last rites of his mother, *vide* order dated 08.07.2024. However, at this stage, no particulars of further religious ceremonies/last sacraments is forthcoming on record, convincing this Court to grant any relaxation/indulgence in favour of the applicant at this stage. Needless for this Court to reiterate that the fundamental principle governing the grant of interim bail is that such a relief may be granted only under compelling circumstances (Refer to; ***Athar Pervez v. State, 2016 SCC OnLine Del 6662***). However, for the reasons noted hereinunder, no compelling ground and/or reason is demonstrable on behalf of the applicant.

7. Consequently, in conspectus of the above and further keeping in view the nature and gravity of the case/offence, the fact of applicant is involved in a crime of heinous nature, severity of punishment, manner of commission of offence and the apprehension expressed that if granted bail, the applicant may flee from justice considering the severity of punishment involved

and further considering that the applicant had already been granted an interim bail for a period of two days *w.e.f* 11.07.2024 till 12.07.2024, to perform the last rites of his mother, *vide* order dated 08.07.2024, this Court does not deem it fit to grant interim bail to the applicant at this stage. Needless, to further reiterate that the applicant has further failed to establish any compelling reasons for grant of interim bail at this stage. As aforementioned, the *Tehravi* ceremony of the deceased has already been carried out on 12.07.2024.

8. Accordingly, the application for interim bail in respect of the applicant, namely, Deepak @ Milkha is ***dismissed***.

9. **A copy of order be sent to the concerned Jail Superintendent** with the direction to deliver it to the applicant. A copy of order be given ***dasti*** to Ld. Counsel for applicant as well as IO.

Abhishek Goyal
ASJ-03, Central District,
Tis Hazari Courts, Delhi
01.08.2024