

State Vs. Rahul Kumar Pal

CNR No.: DLCT01-011251-2022

SC No. 501/2022

FIR No. 111/2022

PS : Lahori Gate

12.12.2024

Present: Mr. Manish Kumar, Ld. Addl. PP (substitute) for the State.

Sh. Randheer Singh, Ld. Counsel for the applicant, namely, Rahul Kumar Pal.

ORDER

1. The present application has been moved under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (*hereinafter referred to as 'BNSS'*), on behalf of accused, namely, Rahul Kumar Pal (*hereinafter referred to as the 'applicant/accused'*), seeking interim bail for a period of eight weeks to enable him to look after and make arrangements for the treatment/operation/surgery of his ailing mother.

2. Learned Counsel for the applicant outrightly submitted that the applicant had been granted interim bail for ten days by this Court *vide* order dated 28.10.2024, for treatment/surgery of his wife, which was subsequently extended till further orders and the applicant was directed to surrender on or before 21.11.2024. It was further submitted that during the said interim bail period, the mother of the applicant, namely, Durgesh Devi, had fallen down and upon her examination by the concerned Doctors, and upon conduction of various tests advised by the Doctors including MRI and X-ray and as per prescription dated 22.11.2024 of Goyal City Hospital, she has been advised to be admitted in Hospital on 13.12.2024 and to undergo a surgery/operation on 15.12.2024. Ld. Counsel further submitted that applicant's mother is suffering with chronic spinal disease and its associated ailments as she has been diagnosed with

“change of lumber spondylosis in the form of exaggeration of lumber lordosis, anterior osteophytes, multilevel disc desiccation and disc herniation”. It was further submitted by Ld. Counsel that due to such chronic disease, the applicant’s mother is unable to walk independently. Further, as per Ld. Counsel, applicant’s father has already left for heavenly abode; applicant’s wife has already undergone multiple surgeries and the applicant’s sister is residing at her matrimonial house and except the applicant, there is no one else in his family to take care of his mother and to make necessary arrangements for her treatment including admitting her in the Hospital for the said surgery. Ld. Counsel further submitted that earlier also, the applicant had been admitted on interim bail on different occasions and that he had surrendered within the stipulated time, without infringing any condition imposed by the Court. Even otherwise, as per the Ld. Counsel, the applicant is innocent and has been falsely implicated in the present case and has been languishing in judicial custody since 25.04.2022 and the trial is likely to take considerable time. It was further argued by Ld. Counsel for applicant that there is no chance of the applicant absconding from trial and that the accused will not misuse the liberty of interim bail, if granted by this court. Ld. Counsel further submitted that the applicant has deep roots and clean antecedents. Lastly, it was submitted by the Ld. Counsel that the applicant is ready to abide all the terms and conditions imposed by this Court while granting bail, including co-operating the investigating authorities and making himself available for further investigation, as and when called for. Conclusively, Ld. counsel for the applicant prayed that the present application be allowed, and he may be released on interim bail.

3. *Per contra*, Ld. Addl. PP (substitute) for the State vehemently opposed the present application on the ground that the applicant was actively involved in the commission of offence in the instant case, being a grave offence. It was further submitted that in case bail is granted to the applicant, there is a reasonable likelihood of flight risk of the applicant. Even otherwise, as per the Ld. Addl. PP for the State, no emergent circumstances are forthcoming from the material placed on record. Further, as per the Ld. Addl. PP for the State, there are other family members in the family of the accused including wife of the applicant, his sister and her husband who can take care of the applicant's mother and no compelling circumstances have been demonstrated by the applicant which would convince this court to grant any indulgence in favor of the applicant. Accordingly, Ld. Addl. PP for the State submitted that the present application may be dismissed.

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

5. At the outset, it is pertinent to observe that the concerned IO, in his reply dated 06.12.2024, has specified/recorded as under;

“...In this regard, verification report of of the medical documents, filed by the petitioner/accused have been obtained from Dr. Mayank Bansal of Goyal City Hospital Agra, UP wherein Doctor has given the report as "As the Patient is under my treatment since 21 September 2024 for lower back ache. On examination: Grossly no neuro sensory motor deficit present. Mri L-S spine-s/o changes of lumber spondylolysis in the form of lumbar lordosis, anterior osteophytes, multi level disc desiccation and disc herniation as described above. There is abutment of bilateral traversing nerve roots at L4-L5. Patient is being managed conservatively with medication only and till now not advised for admission

for surgery". Report is enclosed herewith for kind perusal.

In view of above facts and circumstances, it is pertinent to mention that wife of accused/applicant is living with the patient (mother of accused/applicant) who may look after the patient very well. Apart from this, married sister of accused who is serving in Jail Police, Lucknow, UP is also capable to look after her mother effectively."

(Emphasis supplied)

6. Notably, during the course of proceedings held today, Ld. Addl. PP (substitute) for the State reiterated above and contended that as per the verification report, the concerned Doctor has opined that the applicant's mother is being managed conservatively with medication only and till now, no surgery or admission in the Hospital has been advised to her. Clearly, in light of the same, no exigent circumstances are forthcoming favouring the grant of relief as prayed for, by means of the present application, especially when neither any date of admission or surgery nor any imminent course of treatment, requiring applicant's presence at his home is forthcoming. Needless to further reiterate that there are other family members in the family of the applicant including his wife, applicant's sister and his brother-in-law, who can take care of the applicant's mother and that no reason/ground has been brought to the notice of this Court convincing it to grant any indulgence at this stage. Here, it is further apposite to observe 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 in the present case, convincing this Court to grant any indulgence in favour of the applicant. Apposite to further observe that the grounds on

which the earlier interim bail was granted to the applicant are in stark variance to the facts and circumstances put forth at the stage.

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, 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, as per the report of the IO, neither the applicant's mother has been advised for surgery nor is any exigency brought forth regarding her health. Needless to reiterate, there are other family members to look after her including applicant's wife and his sister.

8. Accordingly, the application for interim bail in respect of the applicant, namely, Rahul Kumar Pal is ***dismissed***. However, at this stage, this Court deems it pertinent to note that any application for custody parole may be considered by this Court, if/ as and when moved by/ on behalf of the applicant.

9. A copy of the present order be given ***dasti*** to the Ld. Counsel for the applicant, namely, Rahul Kumar Pal. Further, a **copy of this order be sent to the concerned Jail Superintendent with the direction to hand over** a copy of order to the applicant.

Abhishek Goyal
ASJ-03, Central District,
Tis Hazari Courts, Delhi
12.12.2024