

CNR No.DLCT01-018221-2021

SC No.466/2021

FIR No.30/2021

PS Daryaganj

U/s 364-A/377/419/347/120-B IPC & 25/27 Arms Act

State Vs. Swapnil & Ors.

25/03/2022

File taken up today on the application u/s. 439 Cr.P.C. of the accused Swapnil for extension of interim bail for the period of three months.

Present: Sh. Amit Dabas, Ld. Substitute Addl. P.P. for the State.

IO/ Inspector Raj Kumar is present.

Sh. Chetan Pangasa, Ld. Counsel for the accused Swapnil.

This Court is looking after the work of Bail Duty Roster and also looking after the work of Ld. Link Court also.

Reader, Ahlmad and Assistant Ahlmad are on leave today.

Reply to the aforesaid bail application of the accused has been filed by the IO.

By way of present order, this Court shall disposed of present application of the accused Swapnil for extension of interim bail for the period of three months.

Arguments heard on the aforesaid application of the accused Swapnil for extension of interim bail for the period of three months. Perused the material available on record.

During the course of arguments, it was submitted by counsel for the accused that the accused has been falsely implicated in the present case. It was further submitted that the present application for extension of interim bail has been filed on the medical grounds of the accused Swapnil. It was further submitted that in the present case, interim bail was granted to the accused Swapnil vide order dated 22/01/2022 passed by this Court for the period of one month on medical grounds and vide order dated 22/02/2022 the interim bail of the accused was extended for the further period of one month. It was further submitted that at present, the accused is suffering from Prolapsed Inter-Vertebral Div with Syrx at D7, Lumbar Spondylosis with Radiculopathy (loss of sensations) with Urinary Incontinence (loss of sensation to hold urine and passing urine and stool in diapers), Disc Protrusion at L5-S1 Level in the Lower Limb with right ear infection with discharge and having severe low backache with numbness in the Lower Limb and Haematuria (blood in urine). It was further submitted that medical condition

of the accused is still critical and under treatment and he is bed-ridden and unable to sit, stand and walk without support and if the accused is not provided with adequate care and nursing, it may lead to permanent paralysis/ disability of the right lower limb in future. It was further submitted that on the advice of doctor, MRI of the accused was done. It was further submitted that on the basis of the medical reports of the accused, the doctor has advised the accused for intensive physiotherapy for 3-6 months, nursing care for daily assistance and a wheel chair for ambulation. It was further submitted that the accused is receiving the intensive physiotherapy twice every day. It was further submitted that there is sensation better in right lower limb and flickering movement in right toes. It was further submitted that facility of intensive physiotherapy on regular basis is not available in the jail as informed by the concerned Jail Doctor on 21/01/2022. It was further submitted that period of interim bail of the accused Swapnil is going to be expired on 25/03/2022. It was further submitted that during the aforesaid interim bail period, the accused has complied all the terms and conditions as mentioned in the interim bail order dated 22/01/2022 and extension of interim bail order dated 22/02/2022 and he has not misused the liberty granted to the accused by way of interim bail. It was further submitted that in view of the medical condition of the accused, interim bail of the accused Swapnil be extended for the further period of three months for his proper medical treatment. It was further submitted that the accused shall be abide by all terms and conditions, if the interim bail of the accused is extended and accused shall not seek further extension of interim bail on any ground and accused shall surrender after the extended interim bail period.

During the course of arguments on the aforesaid application for extension of interim bail, it was submitted by Substitute Addl. P.P. for the State that allegations against the accused are serious in nature and in view of the reply of the Jail Superintendent and IO, the present application of the accused Swapnil be dismissed.

By way of the present application, the accused Swapnil has prayed for extension of interim bail for the further period of three months on his medical grounds. It is pertinent to mention here that in the present case, interim bail for the period of one month on medical grounds was granted to the accused Swapnil vide order dated 22/01/2022 and vide order dated 22/02/2022 the interim bail of the accused was extended for the further period of one month on medical grounds.

In the present case, reply of the present bail application was called from the DG (Prison) and concerned Jail Superintendent and SHO/ IO and reply of Superintendent, Jail No.1, Tihar, New Delhi and IO/ Inspector Raj Kumar have been filed.

It is mentioned in the reply of Superintendent, Jail No.1, Tihar, New Delhi that *“ That as per the medical record, accused is a known case of PIVD (Prolapsed Inter-Vertebral Disc) with traumatic Syring, Lumbar Spondylosis with Radiculopathy (loss of sensations in lower limb) with urinary incontinence, disc protrusion at L5-S1 level in lower limb with persisting low backache and was on wheel chair due to paralysis of lower limb with decreased power in right ankle, right knee and hip is 0/5 and left ankle, left knee and hip is 3/5. 90% sensory loss in right lower limb is also found. That the facility of Physiotherapy is available in Jail and is provided as recommended by the treating doctors. The Senior Residents of specialized field regularly visit the jail hospitals/ dispensary to provide treatment to the prisoners. The accused could be lodged in Central Jail No.3 where Central Jail Hospital is located for extensive physiotherapy, if needed. It is also to mention that in case of further need for specialized test/ treatment, the accused/ patient may also be referred to referral government hospitals of Delhi Prisons. This issues with the approval of DG (Prisons).”*

In the reply of Inspector Raj Kumar, it is mentioned that the concerned doctor has further advised for physiotherapy for three months and time frame for the treatment cannot be predicted in this case.

It is pertinent to mention here that on 21/01/2022, it was submitted by Dr. Charan Singh, Medical Officer In-charge, CJ-1, Tihar, New Delhi that regular physiotherapy is not available in the Jail No.1, Tihar, New Delhi. Vide order dated 22/01/2022, interim bail was granted to the accused mainly on the ground that regular physiotherapy is not available in the Jail No.1, Tihar, New Delhi. But as per report of the Superintendent, Jail No.1, Tihar, New Delhi, facility of physiotherapy is available in Jail and is provided as recommended by the treating doctors and the Senior Residents of specialized field regularly visit the jail hospitals/ dispensary to provide treatment to the prisoners and the accused could be lodged in Central Jail No.3 where Central Jail Hospital is located for extensive physiotherapy, if needed and in case of further need for specialized test/ treatment, the accused/ patient may also be referred to referral government hospitals of Delhi Prisons. It is pertinent to mention here that one of the terms and conditions of the extension

of interim bail order dated 22/02/2022 was that the accused shall not seek further extension of interim bail on any ground. Since the treatment and facility of physiotherapy is available in the Jail, no ground made out for extension of interim bail of the accused. Keeping in view the facts, circumstances of the case, gravity of offence, nature of serious allegations levelled against the accused and in view of the reports of the Jail Superintendent and IO, this Court is of the considered opinion that no ground for extension of interim bail of accused Swapnil is made out. Accordingly, the present application of the accused Swapnil for extension of interim bail is dismissed. The accused is directed to surrender within the time as directed by this Court vide order dated 22/02/2022.

However, Jail Authorities are directed to provide the requisite/ necessary/ immediate medical treatment and physiotherapy to the accused, as per his medical condition on priority basis. Jail Authorities are also directed to get the accused admitted in the Hospital inside the jail or outside the jail referral/ Govt. Hospitals on priority basis, if required, as per rules. In case, surgery of the accused is required/ planned, the Jail Authorities are directed to make necessary arrangements for the same on priority basis. Jail Authorities are also directed to provide appropriate/ requisite diet to the accused as per his medical condition.

A copy of this order be sent to the concerned Jail Superintendent for information and compliance.

Copy of this order be given to counsel for the accused, if prayed for.

Order be uploaded on the website of the Delhi District Court.

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
25/03/2022(G)