

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.

23/05/2022

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

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State.

None has appeared on behalf of the accused Swapnil.

This Court is looking after the work of Ld. Link Court.

Regular Assistant Ahlmad is on maternity leave.

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

Arguments have already been heard on the aforesaid interim bail application of the accused Swapnil. Perused the material available on record.

During the course of arguments, it was submitted by counsel for the accused Swapnil that the accused has been falsely implicated in the present case. It was further submitted that accsued has filed the present interim bail applicaiton on his medical ground. It was further submitted that no interim bail application of the accused Swapnil on the same ground is pending/ decided by the Hon'ble Superior Courts. It was further submitted that after the confinement of the accused in the jail, the accused Swapnil had severe pain and back problem and the medical condition of the accused started deteriorating day by day. It was further submitted that in the present case, interim bail was granted to the accused Swapnil time to time on his medical ground. It was further submitted that after the release on interim bail, the accused undergone various tests as advised by the experts and accused was also got admitted in the hospital. It was further submitted that on initial examination, the accused was found to be suffering from paraparesis with power of 4/5 in both lower limber, urinary incontinence present and sensory loss present in both lower limbs and also

suffering from syring at the mid dorsal and dorsal cord is atrophic. It was further submitted that the accused is not responding to the medical treatment given by doctors of G. B. Pant Hospital and doctors of the jail. It was further submitted by counsel for the accused that as per medical advice, accused requires physiotherapy two times in a day but the accused still has not been provided physiotherapy on regular basis and medical condition of the accused is deteriorating day-by-day and left side power is also decreasing. It was further submitted that medical condition of the accused is critical and the accused requires proper medical assistance and intensive physiotherapy on day to day basis. It was further submitted that accused has not been provided proper medical facilities, medication, care, proper medical assistance and intensive physiotherapy on day to day basis due to which, the medical condition of the accused is deteriorating. It was further submitted that during the period when the accused was released on interim bail, the accused was taking the treatment and regular physiotherapy from the private doctor/hospital and there was some improvement in his medical condition and in view of the same, the accused requires the treatment and regular physiotherapy from the same private doctor/hospital. It was further submitted that earlier, the interim bail was granted to the accused and he never misused the same and after expiry of interim bail period, he timely surrendered in the jail. It was further submitted that interim bail for the period of three months be granted to the accused for proper medical treatment, medication, care, proper medical assistance and intensive physiotherapy on day to day basis. It was further submitted that the accused shall abide by all terms and conditions, if the interim bail is granted to the accused and accused shall surrender after the interim bail period.

During the course of arguments, it was submitted by Sub. Addl. P.P. for the State that allegations against the accused are serious in nature and in view of the reports of the Jail Authorities/doctors, the present application of the accused Swapnil be dismissed. It was further submitted that as per reports filed by the Jail Authorities/doctors, the accused has been provided requisite/proper treatment for his ailments and interim bail cannot be granted to the accused merely on the ground that the accused wants to get his treatment from private doctor/hospital. It was further submitted that accused is a habitual offender and he is involved in two other criminal cases also. It was further submitted that interim bail has

to be granted in exceptional circumstances and in the present interim bail application, the accused has not mentioned any exceptional circumstances and the same be dismissed.

By way of the present application, the accused Swapnil has prayed for grant of interim bail for the period of three months on his medical grounds. It is well settled law that interim bail has to be granted in a very exceptional and extraordinary circumstances warranting the immediate release of the accused to deal with any unforeseen contingency and interim bail cannot be granted in a mechanical manner.

In the present case, reply/reports of the present interim bail application was called from the concerned Jail Superintendent, Medical Officer In-charge and treating doctors and same were filed.

It is mentioned in the latest report dated 20/05/2022 of the Medical Officer In-charge, Central Jail No. 3, Tihar, New Delhi that “ *In reference to the subject sited above, inmate/patient is currently admitted in Central Jail Hospital, Tihar since 26.03.2022 after transfer from Central Jail No. 01, Tihar. The patient is a case of D7 syrinx with L5-S1 PIVD (Prolapsed Intervertebral disc). In continuation to previous medical status report of 07.04.2022, 26.04.22, 05.05.2022 and 12.05.2022, it is submitted that the patient was reviewed in G. B. Pant Hospital/Neurology OPD on 19.05.2022, wherein he was examined and he was advised for Nuero-Surgery opinion. The treatment of the inmate as advised by the treating doctors of G. B. Pant Hospital/Neuro-surgery is being provided from jail hospital. The inmate/patient was again planned for outside OPD at G. B. Pant Hospital on 26.05.2022 for Neuro-Surgery opinion as advised by Neurology department of G. B. Pant Hospital on 19.05.2022. The prescription of G. B. Pant Hospital of 07.05.2022 and 19.05.2022 is enclosed herewith. In compliance to the Hon’ble Court order dated 13.05.2022, it is submitted that the treating doctors of G. B. Pant Hospital/Neuro-Surgery and DDU Hospital/Orthopedics have not mentioned the frequency of physiotherapy. His physiotherapy is done once a day by physiotherapist and para-medical staff. It is also submitted that the regular physiotherapy is being given to the inmate. He is receiving all prescribed treatment and medical diet as per jail rules from jail hospital. He is on conservative management of his medical illness and currently no surgery is planned by the treating doctors. At present, the patient is admitted in surgery ward of Central Jail Hospital*

and his medical condition is stable, however owing to his illness he is bed ridden most of the time and requests a wheel chair to move around.”

As per aforesaid latest report dated 20/05/2022, the accused was reviewed in Neurology OPD, G. B. Pant Hospital and he was advised for Neuro-surgery opinion and accused has been planned for outside OPD on 26/05/2022 at G. B. Pant Hospital for Neuro-surgery opinion as advised by Neurology Department. It is also mentioned that treating doctors of G. B. Pant Hospital and DDU Hospital have not mentioned the frequency of physiotherapy. It is also mentioned that physiotherapy is done once a day by physiotherapist and para-medical staff and the regular physiotherapy is being given to the inmate and he is receiving all prescribed treatment and medical diet as per jail rules from jail hospital and he is on conservative management of his medical illness and currently no surgery is planned by the treating doctors.

On perusal of reports filed by the Jail Authorities, it appears that requisite / proper medical treatment was/is given/provided to the accused. The accused was also referred to the Govt. hospitals for his treatment time to time. There is nothing on the record to show that the jail hospital and jail referral/Govt. hospitals are not having the medical facilities for the diseases/ailments of the accused. Accused is also stated to be given regular physiotherapy once in a day by physiotherapist and para-medical staff. Merely, because the accused wants to get his medical treatment from private doctor/hospital, interim bail cannot be granted to him.

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 Authorities and doctors, this Court is of the considered opinion that no ground for grant of interim bail of accused Swapnil is made out. Accordingly, the present application of the accused Swapnil for grant of interim bail is dismissed.

Meanwhile, Jail Authorities are directed to provide the requisite/ necessary/ immediate medical treatment to the accused, as per his medical condition on priority basis. Jail Authorities are also directed to give the physiotherapy to the accused on regular basis, if advised by the concerned Doctor. 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 or medical advise. Jail Authorities are also directed to take appropriate steps for medical examination and tests of the accused at G.B. Pant Hospital, New Delhi.

The concerned Medical Superintendent, G.B. Pant Hospital, New Delhi is also directed to expedite the medical treatment and tests of the accused Swapnil.

Copy of this order be sent to the concerned Jail Superintendent and Medical Officer In-charge, Jail No. 3, Tihar, New Delhi and concerned Medical Superintendent, G.B. Pant Hospital, New Delhi for information and compliance.

Jail Authorities are also directed to file appropriate report in respect of medical condition and further treatment of the accused Swapnil on weekly basis.

Copy of this order be sent to the concerned Jail Superintendent for information and compliance. Copy of this order be also sent to the accused through concerned Jail Superintendent. 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
23/05/2022(A)