

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.

22/01/2022

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

(Proceeding of the matter has been conducted through video conferencing in terms of circular No.1/RG/DHC/2022 dated 12/01/2022 of the Hon'ble High Court of Delhi.)

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).
Sh. Chetan Pangasa, Ld. proxy counsel for counsel for the accused Swapnil (through V.C.).

By way of present order, this Court shall disposed of interim bail application of the accused Swapnil.

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 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 the present interim bail application has been filed on the medical grounds of the accused. 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 seeing the medical condition of the accused, the Ld. Sessions Court had granted interim bail to the accused Swapnil for the period of one month vide order dated 13/08/2021. 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

syrinx 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 the jail authorities. 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 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 Addl. P.P. for the State that the allegations against the accused are serious in nature and he can abscond, if the interim bail is granted to the accused and the present interim bail application of the accused be dismissed.

The accused Swapnil has filed the present interim bail application for the period of three months on medical grounds. In the present case, replies/ reports were called from the concerned Jail Superintendent and Medical Officer In-charge and SHO concerned and replies/ reports were filed.

It is mentioned in the report dated 18/01/2022 of the Medical Officer In-charge, Central Jail No.1, Tihar, New Delhi that *“at present, Patient/ Inmate is suffering from PIVD (Prolapsed Inter-Vertebral Disc) with Syring at D7, Lumbar Spondylosis with Radiculopathy (loss of sensations) with Urinary Incontinence (loss the sensation to hold urine and passing urine & stool in diaper), Disc Protrusion at L5-S1 level in lower limb with Right Ear Infection with discharge and having severe Low Backache with numbness lower limb, Haematuria (blood in urine), unable to sit, stand, walk without support so he has been provided wheel chair and jail authority has provided him with one assistant (Sewadar) as per advised of DDU Hospital Specialist Doctor for his care and routine activities and he is admitted in Dispensary and under medication for the same but in spite of medication and care his condition is deteriorating.”*

It is mentioned in the report dated 20/01/2022 of the Medical Officer In-charge, Central Jail No.1, Tihar, New Delhi that *“in continuation to medical report send on 18.01.2022 vide dispatch No.D/No.SMO/CJ1/2022/135 it is to state that in compliance of Hon’ble Court order Patient/ Inmate referred to Neurosurgery Department, GB Pant Hospital on 20.01.2022 and he was reviewed by Dr. Harkaran Singh Sahni, Senior Resident for his complaints of PIVD with syrx with lumber spondylosis with progressive weakness of lower limb (Right > left) with loss of bladder & bowel sense control and on examination Doctor has found decreased tone in right lower limb and normal tone in both upper limb. Doctor has also found power in right ankle, right knee and hip is 0/5 and left ankle, left knee and hip is 3/5. He has also found 90% sensory loss in right lower limb. Further, he submit that leading doctor of GB Pant has not mentioned any further course of treatment regarding the same. Due to Patient suffer from PIVD with syrx with lumber spondylosis with progressive weakness of lower limb (Right > left) with loss of bladder & bowel sense control and zero power in right limb and 90% sensory loss it may lead to permanent Paralysis/ disability of right lower limb in future. At present, patient/ inmate is admitted in MI Room of CJ-01 Dispensary with wheel chair support.”*

As per report dated 18/01/2022 of Medical Officer In-charge, accused is suffering from PIVD (Prolapsed Inter-Vertebral Disc) with Syrx at D7, Lumbar Spondylosis with Radiculopathy (loss of sensations) with Urinary Incontinence (loss the sensation to hold urine and passing urine & stool in diaper), Disc Protrusion at L5-S1 level in lower limb with Right Ear Infection with discharge and having severe Low Backache with numbness lower limb, Haematuria (blood in urine), unable to sit, stand, walk without support and under medication for the same but in spite of medication and care his condition is deteriorating. As per report dated 20/01/2022 of Medical Officer In-charge, the accused is suffering from PIVD with syrx with lumber spondylosis with progressive weakness of lower limb (Right > left) with loss of bladder & bowel sense control and zero power in right limb and 90% sensory loss it may lead to permanent paralysis/ disability of right lower limb in future.

On 21/01/2022, it was submitted by Dr. Charan Singh, Medical Officer In-charge, CJ-1, Tihar, New Delhi that in view of the medical condition of the accused Swapnil and medical advise of concerned treating doctors, the accused Swapnil requires intensive physiotherapy twice or thrice in a day on regular basis and regular physiotherapy is not available in the Jail No.1, Tihar, New Delhi.

Medical condition of the accused Swapnil is not disputed. As per Medical Officer In-charge, accused Swapnil requires intensive physiotherapy twice or thrice in a day on regular basis and regular physiotherapy is not available in the Jail No.1, Tihar, New Delhi.

Considering the facts, circumstances, submissions made and medical condition of the accused and without going into the merits of the present case, the present interim bail application of the accused Swapnil is allowed and accused is admitted to **interim bail for the period of one month** on furnishing personal bond and surety bond in the sum of Rs.50,000/- with two sureties each of like amount to the satisfaction of the Court subject to the conditions that:-

- i) Accused shall not flee from the justice;*
- ii) Accused shall not tamper with the evidence;*
- iii) Accused shall not threaten or contact in any manner to the prosecution witnesses;*
- iv) Accused shall not leave the country without permission of the Court;*
- v) Accused shall convey any change of address immediately to the IO and the Court;*
- vi) Accused shall also provide his mobile number to the IO;*
- vii) Accused shall mark his attendance before the concerned IO (and if IO is not available then to concerned SHO) on each and every day through mobile by sharing his location with the SHO/IO;*
- viii) Accused shall further make a call, preferably by audio plus video mode to concerned IO (and if IO is not available then to concerned SHO) on each and every day between 10:00 AM to 5:00 PM;*
- ix) Accused shall keep his such mobile number 'Switched On' at all the time;*
- x) Accused shall not indulge in any kind of criminal activities;*
- xi) Accused shall follow Covid-19 protocol / guidelines issued by Central Government/State Government/Competent Authorities during interim bail period;*
- xii) The period of interim bail of one month shall commence from the date of release of the accused from Jail;*

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- xiii) Accused shall not seek further extension of interim bail on any ground;*
- xiv) Accused shall surrender before the concerned Jail Superintendent after expiry of interim bail period;*
- xv) Concerned Jail Superintendent is directed to file the surrender report of the accused after expiry of interim bail period or after surrender of the accused.*

A copy of this order be sent to the concerned Jail Superintendent through E-mail for information and necessary action. Copy of order be also sent to the concerned SHO/IO for compliance. Counsel for the accused is at liberty to collect the copy of present order through electronic mode.

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

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
22/01/2022(G)