

State Vs. Swapnil & Ors.

CNR No.: DLCT01-018221-2021

SC No. 748/2021

FIR No. 30/21

P.S Darya Ganj

19.01.2024

Present : None for the State.

The matter is passed-over as neither the accused persons are present nor are they represented at this stage.

Abhishek Goyal
ASJ-03, Central District,
Tis Hazari Courts, Delhi
19.01.2024

It is 10.45 a.m.

Present : Mr. Balbir Singh, Ld. Addl. PP (Substitute) for the State.
Mr. Gaurav Bindal and Mr. Manish Kumar, Ld. Counsels with the accused, namely, Vijay Kumar.
The accused, namely, Swapnil is present.

The matter is passed-over as the accused, namely, Akash @ Hunny is not present at this stage. Further, there is no appearance on behalf of other accused persons.

Abhishek Goyal
ASJ-03, Central District,
Tis Hazari Courts, Delhi
19.01.2024

It is 02.40 p.m.

Present : Mr. Balbir Singh, Ld. Addl. PP (Substitute) for the State.
Mr. Chetan Pangasa, Ld. Counsels with the accused, namely, Swapnil.

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Mr. Gaurav Bindal, Mr. Manish Kumar and Mr. Dharmender Kumar, Ld. Counsels with the accused, namely, Vijay Kumar.

Mr. Ansh Makkar, Advocate with the accused, namely, Akash @ Hunny.

Mr. Arif Liyakat and Ms. Jyoti Bisht, Ld. Counsels for the accused persons, namely, Farman and Arpit.

The accused persons, namely, Farman and Arpit have not been produced from judicial custody.

SI Shakti on behalf of IO Insp. Ichcha Ram.

The accused persons, namely, Farman and Arpit have not been produced from judicial custody. It has been brought to the notice of this Court *vide* Letter no. F.1/SCJ-1/AS(UT)/2024/56 dated 03.01.2024, received from Dy. Superintendent, CJ-01, Tihar, New Delhi that due to unavailability of staff of 3rd Battalion due to Republic Day arrangements, the inmates/accused persons would not be produced from judicial custody from 19.01.2024 to 27.01.2024.

Pertinently, pursuant to the order passed on the last date of hearing, report has been received from Jail Superintendent, CJ-01, Tihar, New Delhi. Copy thereof is supplied to Ld. Counsel for the accused, namely, Swapnil.

As per the said reply, it is observed that the facilities mentioned in Serial No. 1 to 6 in the order dated 11.01.2024 of this Court are stated to be available at jail. However, there is no clarity regarding the availability of an attendant on a daily basis for the applicant/accused, namely, Swapnil. Pertinently, in the order dated 11.01.2024, this Court had explicitly observed, as under:-

“It is further confirmed by Dr. Bhaskar Munjal and Dr. Rashmi Mishra that the afore-stated exercises require

constant supervision of an attendant (who need not be a doctor) as well as the fact that the same are required to be performed on a daily basis. Nevertheless, as per the said doctors, the said exercises have been already taught to the applicant/accused.

At this stage, it is confirmed by Dr. Bhaskar Munjal that for the said exercises as well as for the applicant's/accused's proper treatment following are (additionally) required by the applicant/accused on a daily basis:

- “1. Hard bed with normal mattress;
2. Incentive spirometer;
3. 2 kg. Dumbbells;
4. Ankle foot orthosis (left and right side), extra large in size;
5. Wheelchair;
6. Two pillows; and
7. Attendant on a daily basis”

In light of the aforesaid, issue notice to the Jail Superintendent to file a reply inter-alia specifying the availability of the aforesaid facilities as well as the availability of an attendant for the applicant/accused on a daily basis in jail, as per the recommendation of the Medical Board. Copy of this order along with medical report(s) be annexed with the said notice.”

However, despite the aforesaid observations, no clarity is forthcoming regarding the availability of an attendant for the applicant/accused, namely, Swapnil in the jail on a daily basis.

It is submitted by Ld. Substitute Addl. PP for the State that a clarity regarding the aforesaid aspect may be called from the concerned Jail Superintendent.

In light of the aforesaid, **let fresh notice be issued to the concerned Jail Superintendent** to file a response explicitly specifying the availability of an attendant for the applicant/accused, namely, Swapnil in the jail on a daily basis or whether such an attendant can be made available for the applicant/accused on daily basis, as per rules. **The concerned**

Jail Superintendent is directed to depute a responsible officer to be present before this Court on the next date of hearing.

List for further proceedings on the pending bail application of the accused, namely, Swapnil on **23.01.2024 at 02.00 p.m.**

In the meanwhile, **the interim bail granted to the applicant/ accused, namely, Swapnil stands extended till 23.01.2024** on the same terms and conditions as specified under order dated 04.11.2023.

Copy of the order be given *dasti* to Ld. Counsel for the applicant/ accused, namely, Swapnil.

At this stage, Ld. Counsel for the accused persons, namely, Farman and Arpit submits that he does not wish to press the bail application *qua* the said accused persons at this stage and that he may be permitted to withdraw the same. It is submitted by Ld. Counsel that he would prefer appropriate recourse at relevant point of time.

In view of the submissions made by Ld. Counsel, the bail applications *qua* the accused persons, namely, Arpit and Farman are ***dismissed as withdrawn***.

Request for adjournment is made by the Ld. Counsel for the accused, namely, Akash @ Hunny to address arguments on charge.

In the interest of justice and as prayed for, list for arguments on charge *qua* the accused, namely, Akash @ Hunny on **25.01.2024**.

Issue notice to the concerned Jail Superintendent
to produce the accused persons, namely, Farman and Arpit,
through video conferencing, before this Court on the next date of
hearing i.e. on **25.01.2024**.

Abhishek Goyal
ASJ-03, Central District,
Tis Hazari Courts, Delhi
19.01.2024