

State Vs Balkar Singh & Anr
FIR No. 09/2016
PS Special Cell

31.05.2017

Present: Sh. Ravinder Bhati, Ld. Addl. PP for the State.

Both accused produced from JC.

Sh. Sermon Rawat and Sh. Harsh Sethi, Ld. Counsels for applicant/accused.

PW 1/SI Dharambir Singh examined, cross examined and discharged.

No other PW is present.

Put up for RPE on 04.08.2017.

At this stage, one Counsel Sh. Ram Kumar has appeared. He submits that he is representing accused Gurcharan Singh only for his interim bail application. Ld. Counsel stated that an application U/s 439 Cr. PC for grant of bail for 10 days filed on behalf of applicant/accused Gurcharan Singh is fixed for today.

Arguments heard. Record perused.

It is submitted by Ld. Counsel for accused that accused is seeking interim bail on the ground of his illness and for treatment of piles. As per the verification report filed by SI Surender Singh, it has been verified that the accused was suffering from haemmorides/piles. It is reported that earlier surgery was not conducted on the fixed date as the accused has not deposited the requisite amount and since then, he has never approached the hospital. No date of surgery has been fixed till date.

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Ld. Additional PP for State has strongly opposed the interim bail application of accused. He stated that earlier accused was granted interim bail for a period of one month, however, he did not get the surgery conducted. Presently, no date for his surgery has been fixed. He contended that the allegations against the present applicant/accused are very serious in nature. He was involved in three other cases of NDPS Act previously and out of them, he was already convicted in two cases in Punjab. It is submitted that after coming out from Jail on parole in other cases, the accused again indulged in supply of drugs.

It is relevant here to state that in Athar Parvez Vs. State CrI. Ref. 1/2015 passed vide order dated 26.02.2016, Hon'ble High Court of Delhi has held that the court can grant interim bail to the accused when exceptional and extraordinary circumstances would justify this indulgence and this power is to be sparingly used, when intolerable grief and suffering in the given facts may justify temporary release. The court has to keep in mind strict provisions of section 37 NDPS Act and it is only when there are compelling reasons which would justify and require the grant of interim bail, should the application be allowed. The court has further to consider whether sending accused in police custody would suffice and meet the ends of justice, keeping in view the nature of the offence with which the accused is charged.

In my view, the allegations against the applicant/accused are serious in nature as it is a case of commercial quantity of narcotic substances. The application cannot be considered divorced from the facts of the case as the court has to keep in mind the strict provisions of

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section 37 NDPS Act as mentioned in Athar Parvez (supra). Even no date of surgery has been fixed till date.

Hence in totality of the facts and circumstances, the present application has no merit and the same is dismissed.

The superintendent concerned however is directed to ensure proper medical treatment to the applicant in jail hospital or any other government hospital as required. The relatives of the applicant are also at liberty to get the accused examined at any private hospital of their choice in Delhi in custody.

Order dasti, as requested.

(Sudesh Kumar II)
Special Judge/NDPS
New Delhi/31.05.2017