

SC 436/2021
STATE Vs. SUSHIL KUMAR ETC (13)
FIR No. 218 /2021
PS Crime Branch-North Delhi
U/s: 302/307/308/364/365/452/323/342/188/
269/147/148/149/506(II)/392/394/397/411/201/109/120B/34 IPC
U/s 25(1)(B)/27(1)Arms Act

18.10.2023

File taken up today on an application U/s. 439 Cr. P. C for grant of interim bail moved on behalf of applicant/accused **Sushil Kumar**.

Present: Sh. A. B. Asthana, Ld. Addl. PP for the State.
Sh. Rishabh Verma & Sh. Joginder Tuli, Ld. Proxy
counsels for complainant.
Sh. Sahil Malik & Sh. Sumeet Shokeen, Ld. counsels for
applicant/accused.

Reply to the above said application has been received from IO. Same is taken on record.

Medical State Report has been received from Deputy Superintendent, Central Jail No. 7, Tihar, Delhi alongwith the report of Medical Officer Incharge, CJ-07, Dispensary. Same are taken on record.

Ld. counsel for applicant/accused submitted that this Hon'ble Court was granted the interim bail to applicant/accused for surgery of his right knee. It is further submitted that after the surgery and in compliance of order of this Hon'ble Court, applicant/accused had surrendered before the concerned Jail Officials and various conditions were imposed by this Hon'ble court and applicant/accused had complied all the conditions. It is further submitted that despite passage of almost two months from the date of surgery, applicant/accused is still not able to walk without crutches and support as the knee of the applicant/accused is not getting healed. It is further

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submitted that doctors at Safdarjung Hospital have been continuously advising regular TECAR Therapy for atleast two to three weeks to the applicant/accused and advanced physiotherapy for proper recovery. It is prayed that the above said application may kindly be allowed.

On the other hand, Ld. Additional PP for State strongly opposed the above said application and submitted that the present bail application has been moved with an ulterior intention and without any exigency. He has further argued that applicant/accused is in habit of frequently moving interim bail applications as just want to come out of the jail to threaten the prosecution witnesses. He has further argued that applicant/accused has been previously granted interim bail and one of the witness who was earlier supporting prosecution has now moved an application i.e. examination in chief should be recorded afresh, which clearly shows that applicant/accused might have influenced the witness while he was on interim bail. He has further argued that the present application has been moved on vague grounds as some of the treatment i.e. physiotherapy which is not available inside jail cannot be a ground for grant of interim bail and interim bail can only be granted in the case of any exigency. He has further submitted that a Board of Doctor may be constituted from AIIMS and reports regarding current medical status of applicant/accused may be called. It is prayed that the above said application may kindly be dismissed.

This court has given thoughtful consideration to the submissions made by Ld. counsel for applicant/accused and Ld. Additional PP for State and has also perused the record placed before the same.

It is pertinent to mention that applicant/accused **Sushil Kumar** was earlier granted interim bail on the ground of surgery due to partial ACL Tear right knee and his surgery was successfully conducted. It is further pertinent to mention that the applicant/accused has now moved application for grant of interim bail for a period of six weeks for his recovery as he is stated to be having continuous knee pain and is not getting proper physiotherapy TECAR sessions inside the jail. However, on perusal of the reply filed on behalf of Jail Superintendent concerned and the Medical Status Report of Medical Officer Incharge, CJ-07, Dispensary, it is clear that applicant/accused is being regularly reviewed by jail visiting physiotherapist and his physiotherapy is done except for TECAR. Further, the medical status report mentions that at present applicant/accused is hemodynamically stable, ambulatory with support (walker and chair) and he is just complaining the right knee pain and swelling. Medical Status Report further mentions that all the medicines are being provided by Jail Dispensary.

Keeping in view of the medical status report and in view of the seriousness of allegations as well as gravity of offences alleged against applicant/accused **Sushil Kumar**, this Court is of view that no ground for grant of interim bail to applicant/accused Sushil Kumar is made out. **Hence the present interim bail application is dismissed.** The application is disposed of accordingly.

Interim bail application file be tagged with the main file.

Copy of the order be sent to concerned Jail Superintendent for information and compliance.

(Sushil Kumar)
Addl. Sessions Judge- 04
North District Rohini Courts Delhi
18.10.2023