

DRI vs Anil Kumar & ors.  
SC No. 7256/2016

17.10.2017

Present: Ms. Mala Sharma, Ld. SPP for the DRI.

Accused Anil Kumar in JC with counsel Kamal J. S. Mann.

Accused Manu Khosla in JC.

Accused Amit Kumar Singh in JC with counsel Sh. S. S. Dass.

PW-Dr. Shikha Jain is present. She is examined and discharge  
as PW-6.

Summon sent to Dr. Nivedita Dhingra received back with the  
report that she has resigned from hospital. Let she be served again at her  
address mentioned on the summon i.e. F-153, IInd Floor, Mansarovar  
Garden, Delhi.

Matter be listed **on 03.11.2017 and 06.11.2017 for  
prosecution evidence.**

At this stage, UTP-Manu Khosla submitted that he has not  
been properly medically treated even though the investigation has not been  
conducted. Though date 20.10.2017 was given for surgery. Doctor has  
advised ENT Department, though the follow up has also been done from  
AIIMS hospital. Hence, **Jail Superintendent be directed to get the UTP-  
Manu Khosla medically treated on his ailment as per schedule of his  
surgery to be conducted on 20.10.2017 and send the report on**

**24.10.2017. Copy of this order be sent to Jail Superintendent, Tihar for compliance.**

Vide separate order, dictated and announced in the open Court, interim bail application of applicant/accused stands disposed of.

**Copy of this order be sent to Superintendent, Jail, Tihar for information and compliance.**

**Gautam)**

Saket/17.10.2017

**(Dr. Satinder Kumar**

Special Judge (NDPS Act)  
South District,

**IN THE COURT OF DR. SATINDER KUMAR GAUTAM,  
SPECIAL JUDGE;NDPS SOUTH DISTRICT, SAKET**

***DRI vs Anil Kumar & ors. (applicant-Amit Kumar Singh)  
SC No. 7256/2016***

**17.10.2017**

***Order on the interim bail application moved on behalf of  
applicant/accused Amit Kumar Singh***

Vide this order, I shall dispose of interim bail application moved on behalf of applicant/accused Amit Kumar Singh u/s 439 Cr. PC r/w 37 of NDPS Act for grant of interim bail.

Briefly stated the facts as alleged by applicant/accused that Abhishek son of applicant is suffering from seizure/fits etc supported with the medical document whereby treating in the IBHAS i.e. Government Hospital and also being further followed by Bhatia Global Hospital and Fortis and during the course of process of this application, applicant/accused moved another application for grant of interim bail on the ground of illness of his mother. It is submitted that mother of applicant/accused is suffering from CAD (Coronary Artery Disease), ACS (Acute Coronary Syndrome) alongwith severe migraine and admitted in Fortis Hospital and was shifted from Jaypee Hospital to seek second opinion. On 14.10.2017, CT Cornoary Angiography was performed on 256 slice/sec CT scan after injecting non ionic contrast 70 ml intravenously at

**:2:**

the rate of 4.8ml/sec using smart prep technique. CT reconstruction was done with MIP and VR Technique and the images were obtained in various planes. The applicant's wife also filed an affidavit whereas stated in her affidavit dated 03.10.2017 that her *“child developed various ailments including episodes of severe mental depressive disorders and it is not humanly possible to take care child singly, she is unable to take care of her son and due to the doctor's attitude towards her son, he had developed seizure which indicated that his condition is serious and deteriorating day by day. There is no source of income and due to lack of fund, she is unable to take her child to the private hospital. She needs urgent assistance and presence of her husband for the treatment.”*

Notice of this application was issued non-applicant i.e. DRI. DRI had filed replied and strongly opposed the said application with the submission that the past antecedents of applicant is under cloud and application is strongly opposed. The genuineness of the documents have not been disputed though, has been stated that treatment of the patient has not been follow-up as per the medical advise and there are other family members to look after the ailing person. The application is strongly opposed. The non-applicant supported

**:3:**

with the judgment of Hon'ble High Court in ***DRI vs Paramjit Singh Gulati 2015 (1) JCC 758*** wherein it was observed that the “*Court while granting interim bail on medical ground in the genuineness, Court will prefer upon the medical certificate from the Government hospital*”. In another judgment of Hon'ble High Court ***Satpal Juneja vs DRI 2009 (3) JCC (Narcotics) 132*** wherein it was observed that “*petitioner violated the condition of interim bail and failed to surrender after the expiry of interim bail , the bail application should not be rejected.*”

Ld. counsel for applicant/accused has relied upon judgments from Hon'ble High Court titled as ***Ashique Ilahi vs State Bail Application no. 1407/2015 date of decision 03.08.2015*** wherein Hon'ble High Court has granted interim bail and in another order passed by of Hon'ble Justice Gita Mittal of our own Hon'ble High Court in ***bail application no. 692/2008*** and granted interim bail with certain conditions.

During the course of arguments, medical documents were verified and does not have disputed genuineness of the documents in support of application.

Having heard the submission of the Ld. counsels and perused the record, the genuineness of the medical document pertaining to Master

**:4:**

Abhishek son of applicant and Smt. Kamlesh Devi mother of applicant have been verified by the DRI as well as by the Court official. As per the pathological test conducted on 14.10.2017 on patient Kamlesh Devi i.e. mother of applicant was being examined and it was impressed that “*CT Angiography reveals mild wall irregularity seen in the RCA and LAD No. Significant luminal narrowing seen. No other significant abnormality seen. Note is made of lucent area with hyperdense foci in it in the visualized dorsal vertebra - ?Hemangioma. A MRI Dorsal Spine is suggested.*”

Sh. S. K. Bhalla, SIO, DRI also verified personally and Dr. Suman Bhandari, Director and HOD, Cardiology, Fortis Hospital , Noida reported vide her letter dated 17.10.2017 that “*Mrs. Kamlesh Devi, IPD 200993, has recent chest pain and CT coronary angiography was done recently which revealed non-significant CAD. However, in view of recurrent chest pain with ECG changes, she is advised coronary angiography*”

In case **of Ashique Illahi (supra)** in para no. 6 it was observed that “ In **Atik Ansari vs State NCT Delhi, 2006 IV AD (Cri.) (DHC) 303** my esteemed brother Badar Durrez Ahmed, J. was considering an application for grant of interim bail on similar grounds. In that case it was alleged that 2.5

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kilograms of heroin were recovered from the applicant who was seeking interim bail on the medical grounds of his wife.

***In order dated 08.05.2008 in bail application 692/2008, Hon'ble High Court*** granted interim bail for the purpose of treatment with the condition that applicant shall not leave territorial jurisdiction of this Court without permission of the Court and shall surrender to the Superintendent, Jail on expiry of the period of bail.

Ld. Senior SPP for DRI has cited judgment of Pramjit Singh (supra). Accordingly, the patient Abhishek is being treated from the Government Hospital i.e. IBHAS and so far as the ***Satpal Juneja (supra)***, the applicant had never seek any interim Court from this Court earlier. So far as his regular bail as granted earlier by the Predecessor, Ld. counsel for applicant has argued that the applicant/accused has been adopted the due process of the law while approach to the higher Court, as such, has not violated any conditions.

Keeping in view of the judgments as cited above as well as to the facts of the present case, it is a matter of fact that the recovery of the substance has not been effected from the possession of the applicant and he has been apprehended on the disclosure statement of co-accused, who

**:6:**

was also facing trial. The mother of applicant is also suggested to be *CT Angiography reveals mild wall irregularity seen in the RCA and LAD No. Significant luminal narrowing seen. No other significant abnormality seen. Note is made of lucent area with hyperdense foci in it in the visualized dorsal vertebra - ?Hemangioma. A MRI Dorsal Spine is suggested."*

It is also contended that the condition of the patient Abhishek (son) and Smt. Kamlesh Devi (mother) are very critical. The son of applicant also in episode of severe mental depression disorder and seizure and his condition is serious and deteriorated day by day. The said fact has also been stated on oath through an affidavit filed by Smt. Nupur Singh (mother of Abhishek). There is no impediment or embargo of Section 37 of NDPS Act for granting of interim bail. The present applicant is entitled to grant interim bail under the circumstance as mentioned above.

Accordingly, the applicant/accused Amit Kumar Singh is directed to be released on interim bail for two weeks from the date of his release on furnishing a PB in the sum of Rs. 2 lacs with two local sureties of the like amount to the satisfaction of the Court with the following conditions:

(i) Applicant/accused shall report to the SHO of the concerned Police Station twice in a week on every Monday and Friday during the period of

*DRI vs Anil Kumar & ors. (applicant-Amit Kumar Singh)*  
*SC No. 7256/2016*

*Order on interim bail application*  
*of accused Amit Kumar Singh*  
*17.10.2017*

**:7:**

interim bail.

(ii) Applicant/ accused shall not leave the GNCT of Delhi without permission of the Court and will not leave the country as well as surrender his passport within two days from his release.

(iii) Applicant/ accused shall surrender before the Jail authorities on expiry of period of interim bail. Jail authorities are also directed to furnish report qua the surrender of the applicant/accused

With these observations, application stands disposed of.

Copy of this order be given dasti to Ld. counsel for applicant/accused, on his request as well as copy of this order be sent to Superintendent, Jail, Tihar for information and compliance.

**(Dr. Satinder Kumar Gautam)**  
Special Judge (NDPS Act)  
South District, Saket/17.10.2017