

**IN THE COURT OF SH. SUDHANSHU KAUSHIK :
SPECIAL JUDGE (NDPS)/ADDL. SESSIONS JUDGE (WEST DISTRICT):
TIS HAZARI COURTS : DELHI**

In the matter of :

CNR No.DLWT01-000498-2021

FIR No.301/2019

21.03.2022

State Vs Sonu Kumar

U/s 21, 29 NDPS Act

PS : Crime Branch

File taken up today on an application filed under Section 439 Cr.P.C on behalf of applicant/accused Sonu Kumar seeking extension of interim bail.

Present : - Sh. K.D.Pachauri, Addl. Public Prosecutor for State.
Sh. Nitin Kumar, Counsel for applicant/accused Sonu Kumar.

Reply to the application has been forwarded by the Investigating Officer. Be taken on record.

Arguments on application seeking extension of interim bail of the applicant/accused Sonu Kumar heard.

Counsel for applicant/accused has submitted that applicant was admitted to interim bail for a period of 60 days vide order dated 17.01.2021 passed by this court for taking care of his ailing wife. Counsel has submitted that interim bail was granted to the applicant on the ground that his wife was admitted at Metro Hospital, Najafgarh, Delhi and she had some complications in her pregnancy. Counsel has contended that as on day, the wife of the applicant is 24 weeks pregnant and her condition is still not stable. He has submitted that wife of the applicant is still suffering from Microcytic Hypochromic Anemia and her condition is critical. Counsel has argued that the wife of the applicant remained admitted in the hospital for few days and the concerned doctor has advised her complete bed-rest. He has mentioned that the wife of the applicant is suffering from palpitation, weakness, fever and respiratory disorder. He has submitted that applicant needs to arrange funds for the treatment of his wife. Counsel has argued that applicant is a poor man with clean antecedent. He has stated that the presence of applicant is still required at home to take care of his ailing wife as

there is no male member available in the family. Counsel has submitted that applicant is ready and willing to comply with any condition that may be imposed upon him. On the force of these submissions, counsel has prayed that interim bail of applicant may be extended for further period of two months.

On the other hand, Addl. Public Prosecutor has opposed the application. He has submitted that applicant has already been granted ample time to take care of his ailing wife. He has argued that initially, applicant was granted interim bail for a period of 60 days and now, he has sought extension of interim bail on similar grounds. He has mentioned that applicant was admitted to interim bail twice on the ground of illness of his wife. He has contended that applicant is misusing the process of law by taking undue advantage of medical condition of his wife. He has argued that rigor of Section 37 of the NDPS Act is applicable in the present case as the commercial quantity of contraband substance (1 kg of Heroin) has been recovered. He has stated that no further grounds are made out for extension of interim bail of the applicant.

I have perused the record in the light of respective arguments. Initially, applicant was admitted to interim bail for a period of 60 days vide order dated 17.01.2022 passed by this court for taking care of his ailing wife. Before that applicant was released on interim bail for a period of eight weeks vide order dated 12.05.2021 passed by this court on the ground of illness of his wife. On both the occasions, interim bail was granted to the applicant on the ground of illness of his wife. By means of present application, applicant has sought directions for extension of interim bail for further period of two months. I have perused the medical documents of the wife of the applicant. It appears that the wife of the applicant is not suffering from any life threatening ailment and she is taking treatment from the concerned hospital. Applicant is trying to take undue advantage of medical condition of his wife. It has been held by the Hon'ble High Court of Delhi in "*Athar Pervez Vs State*" (Crl. Ref.1/2015, decided on 26.01.2016) that the power is to be sparingly used, when intolerable grief and

suffering in the given facts may justify temporary release. It has been further held that while rejecting or accepting an application for grant of “*interim*” bail, the trial court will keep in mind the strict provisions of Section 37/32A of the NDPS Act and only when there are compelling reasons which would justify and require the grant of “*interim*” bail, should the application be allowed. It is further held that the court must take into account whether or not the accused/convict is likely to commit or indulge in similar violations. Applicant was caught red-handed while he was carrying 1 Kg of Heroin. In cases of recovery of commercial quantity of contraband substance, strict parameters have been prescribed by the Apex Court for releasing an accused on regular and interim bail. The applicant has been granted sufficient time to take care of his ailing wife. He has been on interim bail for the last around two months. He was granted interim bail solely for the purpose of treatment and taking care of his wife. The purpose for which the interim bail was granted stands fulfilled and the applicant has to surrender before the concerned Jail Superintendent. I find force in the submissions made by the prosecution that rigor of Section 37 of the NDPS Act is applicable in the present case as the commercial quantity of contraband substance has been recovered. I am of the considered opinion that at this stage, no ground is made out for extending the interim bail of the applicant Sonu Kumar. Application stands dismissed. Applicant is directed to immediately surrender before the concerned Jail Superintendent.

Copy of this order be given dasti to the counsel for the applicant and the same be also forwarded to the concerned Jail Superintendent.

(Sudhanshu Kaushik)
Special Judge (NDPS)/
Addl. Sessions Judge (West District),
Tis Hazari Courts, Delhi
21.03.2022