

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

In view of Office Order No.533-617/Admn./PD&SJ/West/2021 dated 13.01.2022 passed by Ld. Principal District & Sessions Judge (West), Tis Hazari Courts, Delhi, the matter is being taken up through Video Conferencing.

**CNR No.DLWT01-010379-2019
FIR No.361/2019
State Vs Sunny
U/s 20 NDPS Act
PS : Rajouri Garden**

05.02.2022

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

Present : - Sh. K.D.Pachauri, Addl. Public Prosecutor for State.
Sh. Bharat Kashyap, Counsel for applicant/accused Sunny.

Reply to the application forwarded by the Investigating Officer is already on record.

Record perused. Record shows that two similar applications have been filed on behalf of the applicant. Counsel for the applicant has submitted that certain additional medical documents have been filed along with the second application. Counsel has submitted that he may be granted liberty to withdraw the subsequent application with request to place on record additional documents. Request considered and allowed. Subsequent application stands dismissed as withdrawn and additional medical documents filed on behalf of the applicant be taken on record.

Arguments on application seeking extension of interim bail of applicant Sunny heard through video conferencing.

Record depicts that regular bail application of this applicant has recently been dismissed vide order dated 19.01.2022 passed by this court.

Counsel for the applicant/accused has argued that applicant is

innocent and he has been falsely implicated in the present case. Counsel has submitted that recovery has been planted upon the applicant and charge-sheet in the present matter has already been filed. He has submitted that applicant belongs to poor strata of society and he has clean antecedents. Counsel has contended that vide order dated 18.08.2021, applicant was granted interim bail for a period of 90 days for taking care of his pregnant wife. He has mentioned that the said interim bail of the applicant was further extended for further period of 60 days to take care of his wife and infant. Counsel has submitted that now, applicant is suffering from limb deformity and the concerned doctor of Guru Gobind Singh Hospital has advised him CT Scan & MRI of ankle & lower limbs for further treatment. He has contended that although, applicant has recently been tested COVID-19 Negative but he is undergoing treatment from Guru Gobind Singh Hospital. He has mentioned that applicant is not in a position to walk properly and he requires bed-rest. He has mentioned that applicant is ready and willing to comply with any condition that may be imposed upon him. Counsel has pointed out that applicant never misused the liberty granted to him while being on interim bail. On the force of these submissions, prayer has been made by the counsel that interim bail of the applicant may be extended for further period of 6 weeks.

On the other hand, Additional Public Prosecutor has opposed the bail application mentioning that 25 kg of ganja was recovered on the spot from the possession of the applicant/accused Sunny. He has contended that since commercial quantity of contraband substance has been recovered from the possession of the applicant, therefore, rigor of Section 37 of the NDPS Act is applicable in the present case. He has mentioned that presently, applicant is on interim bail till 06.02.2022 and no ground is made out for extending his bail. He has contended that initially, applicant was granted interim bail to take care of his pregnant wife. He has mentioned that the wife of the applicant has already delivered a baby and the purpose of interim bail stands fulfilled. He has submitted that applicant should be directed to surrender before the concerned Jail Superintendent on expiry of interim bail. He has contended that applicant has

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recently been tested COVID-19 Negative on 02.02.2022. He has argued that applicant is suffering from minor wound in his leg and he intends to take advantage of the same to remain on interim bail. He has contended that applicant is not suffering from any life threatening ailment and if required, applicant may get treatment in the jail premises. He has mentioned that regular bail application of this applicant has recently been dismissed vide order dated 19.01.2022 passed by this court and now, applicant is seeking extension of interim bail frivolous ground. He has prayed that application may be dismissed.

I have perused the record in the light of respective arguments. Initially, applicant was granted interim bail for a period of 90 days vide order dated 18.08.2021 passed by this court on account of pregnancy of his wife. His interim bail was extended for further period of 60 days vide order dated 24.11.2021 passed by this court to take care of his wife and infant. Interim bail of the applicant is stated to be expiring on 06.02.2022. Now, applicant has moved an application seeking extension of interim bail. Regular bail application of this applicant has recently been dismissed vide order dated 19.01.2022 passed by this court. It is the case of prosecution that on 08.08.2019, on receiving secret information, at around 10:00 – 10:30 PM, at TC Camp Chowk, Raghubir Nagar, Delhi, applicant/accused Sunny was apprehended and he was found in possession of 25 kg of Ganja, which falls under the commercial quantity. I find force in the submissions made by the prosecution that the bar provided for bail under Section 37 of the NDPS Act is applicable in the present case as the commercial quantity of ganja has been recovered from the possession of applicant. Applicant was granted interim bail solely for the purpose of taking care of his pregnant wife. It has been stated that the wife of the applicant has already delivered a baby and the purpose of interim bail stands fulfilled. Interim bail of the applicant is stated to be expiring on 06.02.2022. I am of the considered opinion that applicant is not suffering from any life threatening ailment. He has recently been found COVID-19 Negative. The applicant can get treatment for his wound in the jail premises. Keeping in view the quantity of contraband substance recovered from the

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possession of applicant and considering the fact that applicant is not suffering from any life threatening ailment, I am of the considered opinion that, at this stage, no case is made out for extending the interim bail of the accused/applicant Sunny. Application stands dismissed. Applicant is directed to surrender before the concerned Jail Superintendent on expiry of his interim bail.

Copy of this order be given dasti to the counsel for the applicant.

(Sudhanshu Kaushik)
Special Judge (NDPS)
Addl. Sessions Judge (West District)
Tis Hazari Courts, Delhi
05.02.2022