

19.01.2023

Present : Sh. Arun Khatri, Ld. SPP for ED alongwith Sh.
Akshay Kumar Dahiya, Ld. Counsel.
Sh. Anmol Arya, proxy counsel for
applicant/accused.
IO Sunil Kumar Meena for ED in person.

Matter taken up in the afternoon as was directed yesterday, although, it is not recorded in the ordersheet.

Proxy counsel for applicant/accused has appeared and submitted that main counsel Sh. Priyadarshani Manish is unwell since last night having developed some respiratory problem and difficulty in breathing.

I had asked the proxy counsel to furnish a document/medical advice pertaining to the counsel, on which he has sought pass over to obtain instructions.

(Harjyot Singh Bhalla)
Roster Judge/Addl. Sessions Judge-04,
New Delhi District, Patiala House Courts
New Delhi/19.01.2023

At this stage,

Present : Sh. Arun Khatri, Ld. SPP for ED alongwith Sh.
Akshay Kumar Dahiya, Ld. Counsel.
Sh. Anmol Arya, proxy counsel for
applicant/accused.
IO Sunil Kumar Meena for ED in person.

Matter taken up again.

Proxy counsel submits that medical advice received by the counsel shall be filed before the court to show that the said plea of being unwell is not sham.

Ld. SPP for ED vehemently urged that it is surprising that when the counsel was present yesterday and has sought listing of matter for today, for furnishing of documents, suddenly, the plea of illness has been taken.

Ld. SPP for ED submits that the documents which were sought to be filed could well have been placed on record by the applicant. Ld. SPP for ED has submitted that repeated adjournments have been sought by the applicant and more specifically on 03.01.2023 and 06.01.2023 as well as 09.01.2023 and then 11.01.2023 to argue the bail application on ground of unavailability of counsel for the applicant/accused. Ld. SPP for ED has pointed out that even cost of Rs.25,000/- was imposed on 12.01.2023 by the previous Ld. Roster Judge, while adjourning the matter for 18.01.2023 which was yesterday. Counsel submits that, therefore, the present bail application may be dismissed as not having been pressed by the applicant.

Ld. SPP for ED has further submitted that entire investigation in the present case is stalled because of the non co-operation of the present applicant/accused and the pendency of the present bail application.

The submissions made today in the court and the opposition has put me in dilemma, inasmuch as, if the counsel is unwell with respiratory problem and unable to appear then penalizing the accused for the same would be too harsh a view

considering that there was no opportunity for the accused also to arrange for an alternate counsel within the period of less than one day. However, the Department has its own concerns which I cannot brush aside lightly, inasmuch as, the matter may have serious implications and investigation may be suffering.

However, perusal of the record reveals that there is no interim protection granted to the accused in the present case.

Therefore, in my view, prima facie, the Department's investigation may not have been stalled by any order of the court in the present petition and it may be out of prudence that the Department may be holding its hands considering the pendency of the bail application. However, primary aspect to be considered, at this stage, is whether the counsel for the applicant/accused has genuinely fallen sick.

Proxy counsel for the applicant/accused has also submitted that, in fact, in another matter, pending before the Hon'ble High Court of Delhi and listed for today, the counsel has not appeared for the reasons of his being unwell.

In these circumstances, considering that a request has been made for adjournment by 5 days, it is submitted that the counsel shall submit his medical documents in the court on the next date of hearing, for the perusal of the court, to conclude whether the adjourned sought today was justified or not justified, in view of the specific objection taken by the Department.

Needless to say that documents that were required to be filed today also be filed.

It is clarified that no further opportunity for filing the documents shall be given to the applicant/accused by the court.

With these observations, the matter be listed for
23.01.2023 at 02.00 PM.

(Harjyot Singh Bhalla)
Roster Judge/Addl. Sessions Judge-04,
New Delhi District, Patiala House Courts
New Delhi/19.01.2023