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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL. A.253/2020

OBIANIKA AMOBI CHIJOKE

..... Appellant

Through: Mr. Maninder Singh, Advocate with
Ms. Aekta Vats, Advocate.

Versus

STATE (NCT OF DELHI)

.... Respondent

Through: Mr. Rajesh Manchanda, Advocate for
NCB.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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24.08.2020

Crl. M.A. Nos.11387-88/2020 (exemption)

Exemptions are granted, subject to just exceptions and subject to the appellant completing all requirements of filing certified/true typed/properly-margined copies of annexures and attested affidavits within 10 days of physical re-opening of the court.

Applications stand disposed of.

Crl. M.A. No.11386/2020 (for extension of interim bail)

The appellant was granted interim suspension of sentence *vidé* order dated 24.07.2020 principally on the ground that since he is a diagnosed case of HIV-positive, he is in the high risk category of inmates susceptible to the coronavirus infection in prison. Since the appellant is a foreign national, whose passport and visa had expired

during his long incarceration, prior to his being granted interim suspension of sentence the appellant had got his passport renewed and had also obtained a one-month visa of the appropriate category, so that his stay outside prison would be legitimate and legal.

2. The interim suspension of sentence granted *vidé* order dated 24.07.2020 for 03 weeks expires today i.e. 24.08.2020. There is no allegation that appellant has violated any conditions of interim suspension.

3. By way of the present application, Mr. Maninder Singh and Ms. Aekta Vats, learned counsel for the appellant seek extension of interim suspension of sentence for a reasonable period. It is pointed-out that *vidé* orders dated 13.07.2020 and 24.07.2020 made by a Full Bench of this court in W.P.(C) No.3037/2020 titled ***Court on its own Motion vs. State & Ors.***, all interim orders, such as the interim suspension of sentence granted to the appellant, stand extended until 31.08.2020. Counsel however submit that initially the appellant was granted an X (Miscellaneous) Category Visa, which ran-out on 21.08.2020. However, prior to that on 14.08.2020, the appellant had already applied on-line for extension of the visa; but, the application status on the FRRO portal is showing as 'Under Process' as on 17.08.2020. Mr. Singh points-out that the visa status is the same even as of this morning.

4. In the circumstances, it is prayed, that considering the orders of the Full Bench and the fact that appellant had applied for extension of visa well in time, he be permitted to avail the extension afforded by the Full Bench orders, pending the processing of his visa by the FRRO. Counsel further submit that insofar as the prevailing

coronavirus pandemic is concerned, nothing has improved; and if at all, the number of reported cases has spiked.

5. Issue notice.

6. Mr. Rajesh Manchanda, learned counsel for NCB appears on advance copy; accepts notice; and seeks time to file status report.

7. Mr. Manchanda submits that while the extension of interim suspension cannot be denied in view of the orders of the Full Bench, as of now the appellant does not have a valid visa and accordingly he must be transferred to a detention centre. Mr. Manchanda argues that in accordance with judgment dated 27.02.2019 made by a Division Bench of the Bombay High Court in *Suo Motu* Writ Petition No. 1/2019, in the present circumstances, the appellant must be sent to a detention centre.

8. Let status report be filed before next date of hearing, with advance copy to the opposing counsel.

9. Considering the reason and rationale why the Full Bench has granted blanket extension of interim orders, namely the serious risk of spread of the pandemic inside prison if those presently outside are allowed to return to prison; and the fact that the appellant had applied for extension of visa well in time and the visa status is showing as 'Under Process' till date, which is beyond the control of the appellant, the appellant's interim suspension of sentence stands extended by operation of the Full Bench orders till 31.08.2020, awaiting a decision on the visa application.

10. Since the FRRO is not represented in the present proceedings, let counsel for the appellant forward a copy of this order to the FRRO for their information.

11. List on 1st September 2020.
12. A copy of the order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

AUGUST 24, 2020

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