



\$~2

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CRL.A. 225/2022 & CRL.M.A. 25184/2024

SMT MITHLESH

.....Appellant

Through: Mr. Ajay Verma & Mr. Krishna
Sharma, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Mukesh Kumar, APP for the State
with SI Suresh, P.S. New Usman Pur.
Mr. Harsh Prabhakar, Amicus Curiae
for R-2.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

%

29.08.2024

1. This hearing has been done through hybrid mode.

CRL.M.(BAIL) 1360/2024

2. This is an application under Section 389 of the CrPC filed by the Appellant/Applicant-Smt. Mithilesh seeking interim suspension of sentence for a period of 03 months and release on bail during the pendency of the captioned appeal.
3. There are two grounds on which interim suspension of sentence and bail has been sought by the Appellant/Applicant which are as follows: -
 - (i) On medical grounds and, also owing to the old age of the Appellant; and
 - (ii) The co-convict's, Neeraj, sentence has already been suspended by the Predecessor Bench of this Court in **CRL.M.(BAIL) 1043/2023** vide order dated 7th March, 2024 passed in **CRL.A. 323/2022**.
4. This Court has heard the ld. Counsel for the Appellant/Applicant, who



submits that, in fact, Appellant would wish to press for regular suspension of sentence itself, considering the fact that the role ascribed to the Appellant/Applicant is very limited. He further submits that the co-convict has also been released on bail as his sentence has been suspended by this Court, as noted above.

5. On the other hand, Mr. Harsh Prabhakar, *Id. Amicus Curiae*, appearing for the deceased submits the Appellant (mother) was a proclaimed offender for a period of 4 years and never surrendered. He states that she, in fact, chose to not be traceable and under such circumstances, her case cannot be equated with that of co-convict, Neeraj.

6. However, *Id.* Counsel for the Appellant/Applicant submits that subsequent thereto once she had surrendered, she was granted regular bail by a learned Single Judge of this Court *vide* order dated 17th August, 2010 in ***BAIL APPLN. 1167/2010***.

7. This Court has considered the medical reports of the Appellant/Applicant which shows that she is suffering from various ailments including systemic hypertension/Osteoarthritis, immature Senile Cataract, bed sore right-side ischium and Bronchial Asthma. She is undergoing treatment, as per report dated 27th August, 2024 sent by the Medical Officer In-charge, Central Jail Dispensary-16, Mandoli Jail.

8. Considering the age of the Appellant and the fact that, the co-convict's sentence has already been suspended, this Court is inclined to suspend the sentence awarded to the Appellant/Applicant for a period of 03 months and she is directed to be released on bail, from the date of release, on her furnishing a personal bond of Rs. 25,000/- with one surety of like amount, to the satisfaction of learned Trial Court/Link Court, further subject to the



following conditions:

- i. The Appellant/Applicant shall not leave the country without prior permission of this Court;
 - ii. The Appellant/Applicant shall intimate this Court by way of an affidavit as also the Investigating Officer regarding any change in the residential address;
 - iii. The Appellant/Applicant shall appear before this Court as and when the matter is taken up for hearing;
 - iv. The Appellant/Applicant shall provide her mobile number to the Investigating Officer and intimate about any change;
 - v. The Appellant/Applicant is directed to surrender before the jail authorities after the expiry of interim bail.
9. The application is allowed and disposed of accordingly.
10. Order be uploaded on the website of this Court *forthwith*.
11. Copy of this order be sent to the concerned Jail Superintendent for necessary information and compliance.
12. The main appeal is listed for hearing on 9th September, 2024, accordingly, the application being, **CRL.M.A. 25184/2024**, seeking early hearing, is disposed of accordingly.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

AUGUST 29, 2024

bsr/bh/ns