

## Jumah Khan vs The State Govt. Of Nct Of Delhi on 16 March, 2023

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPLN. 991/2022

JUMAH KHAN

..... Petitioner

Through: Tanya Agarwal, Advocate

versus

THE STATE GOVT. OF NCT OF DELHI ..... Respondent

Through: Mr. Ritesh K Bahari, APP for the  
State Insp. Rahul, SP Cell, Pandav  
Nagar

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% 16.03.2023

1. This application has been filed seeking modification in the judgment dated 5th January, 2023 passed by this Court in Bail Appln. 991/2022 whereby this Court had granted bail to the petitioner on furnishing personal bond in the sum of Rs.1 lacs with two sureties of the like amount. The petitioner has stated in the application that he has not been able to arrange for two sureties of Rs.1 lacs each but is able to furnish just one surety. It is submitted that the petitioner is in custody for the last about 8 years and 8 months and because of this long incarceration, he has lost his ties with friends and is left with no other remedy but to seek modification of the judgment dated 5th January, 2023. Learned counsel for the petitioner states that he may be permitted to furnish one surety of Rs.50,000/-.

2. Accordingly, the bail conditions imposed in the judgment dated 5th January, 2023 are modified to the extent that the petitioner be released on bail on furnishing personal bond in the sum of Rs.50,000/- with one surety of the like amount subject to the satisfaction of the Ld. Trial Court.

3. Yet another prayer has been made relating to the condition of requisitioning of assurance from the Embassy / High Commission of Afghanistan, the country, to which the petitioner belongs, that the petitioner will not leave the country. Learned counsel for the petitioner has contended that since the change of governance in Afghanistan and new regime, this confirmation may be implausible and would again delay the release of the petitioner.

4. In the opinion of this Court, while these conditions have been imposed in consonance with the decision of Hon'ble Supreme Court in particular as held in Supreme Court Legal Aid Committee (representing undertrial prisoners) v. UOI (1994) 6 SCC 73, the Hon'ble Supreme Court has also considered situations where accused are unable to furnish surety and held in decision dated 31st January, 2023 in Re: Policy Strategy for Grant of Bail SMWP (Crl.) 4/2021 has issued guidelines

including inter alia allowing the concerned courts to suo moto take up the cases and consider whether conditions of bail require relaxation / modification.

5. In view of the above, the condition imposed relating to the necessity of requisitioning a certificate of assurance from the Embassy/High Commission of Afghanistan, is accordingly deleted.

6. In view of these modifications, it is additionally directed in pursuance of para 9(v) of the said judgement that the petitioner shall report to the IO on every Saturday at 4:00 P.M., unless leave of absence is obtained from the Ld. Trial Court. The petitioner will duly deposit his passport with the Ld. Trial Court.

7. The bail conditions of judgment dated 5th January, 2023 are accordingly modified to the extent stated above.

8. The application is disposed of accordingly.

9. Order be uploaded on the website of this Court.

ANISH DAYAL, J MARCH 16, 2023/sm