

Kunal Bhandari @ Rocky vs State (Nct Of Delhi) on 28 May, 2021

Author: Siddharth Mridul

Bench: Siddharth Mridul, Anup Jairam Bhambhani

\$~S-19

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.A. 343/2020

KUNAL BHANDARI @ ROCKY Appellant
Through: Ms. Aruna Mehta, Advocate.

versus

STATE (NCT OF DELHI) R
Through: Ms. Aashaa Tiwari, APP f

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% 28.05.2021 The present matter has been taken up for hearing by way of Video Conferencing on account of COVID-19 pandemic. CRL. M.A. 8362/2021 (Exemption) The present application under section 482 of the Code of Criminal Procedure, 1973 has been filed on behalf of the applicant/appellant seeking exemption from filing attested affidavit in support of the accompanying application.

For the reasons stated in the application and in view of the prevailing situation, the same is allowed. The applicant/appellant is allowed to file the duly signed and attested affidavit within a period of 01 week from the date of resumption of regular functioning of the Court.

With the above directions, the present application is disposed of. CRL. M.A. 8360/2021 (Additional Evidence) and CRL. M.A. 8361/2021 (Additional Ground) Issue notice.

Ms. Aashaa Tiwari, learned Additional Public Prosecutor accepts notice on behalf of the State.

List on 26.07.2021, the en-bloc date already fixed. CRL. M. (BAIL) 698/2021 (Regular/Interim Bail) The present application under section 439 read with section 482 and section 389 of the Code of Criminal Procedure, 1973 instituted on behalf of Kunal Bhandari alias Rocky, the applicant/appellant herein, is an omnibus application seeking both regular suspension of sentence during the pendency of the appeal as well as interim suspension of sentence on the ground that he

wishes to be re-united with his family.

Issue notice.

Ms. Aashaa Tiwari, learned Additional Public Prosecutor accepts notice on behalf of the State.

On a perusal of the order passed by this court on 17.08.2020 in CrI. M. (Bail) 7787/2020 and in particular paragraphs 4, 5 and 6 thereof which are extracted herein below for facility; as well as considering the ocular testimony of PW-3; and the circumstance that the appeal itself has been taken-up for hearing and is listed next on 26.07.2021, we find that on a prima facie view no good ground is made-out for the release the applicant/appellant either on interim suspension of sentence or regular suspension of sentence pending the appeal, at this stage. The relevant paragraphs of order dated 17.08.2020 are reproduced herein below for ease of reference :

"4. Learned Additional Public Prosecutor for the State has opposed the application on the ground that conduct of the appellant is not satisfactory as he had once escaped from DDU Hospital on May, 2013 from the custody of police. It is, therefore, prayed that the application of the appellant be dismissed.

5. We have considered the rival submissions. The appellant has been convicted by the learned trial court in FIR 217/2009, under Sections 364-A/302/201/34 IPC, Police Station Vikas Puri vide judgment dated 8th May, 2020 for kidnapping and murder of one boy Ribhu Chawla, aged about 16 years. The appellant is seeking suspension of sentence on the ground of resuming social ties with society and his family as he is in custody for about 11 years. The allegations against the appellant are very serious in nature. It is alleged that appellant along with his co-assailants murdered victim Ribhu Chawla despite receiving ransom amount of Rs.15 lacs from his father Sanjay Chawla and disposed of his dead body in Vasant Kunj Jungle (Forest), near Peer Baba Mazar in front of Vasant Kunj Ryan International School, New Delhi. The conduct of the appellant in jail is also not up to the mark. As per nominal roll dated 15th August, 2020, appellant had escaped from custody on 3rd May, 2013 from DDU Hospital and was re-arrested on 12th May, 2013 and as case bearing FIR No. 196/2013 was also registered in Police Station Hari Nagar in this regard against him. Further, as per medical status report dated 15th August, 2020, appellant is a drug addict and was referred to De-Addiction Centre, Central Jail Hospital, Central Jail no. 3, Tihar on 15th July, 2020. The medical status report dated 15th August, 2020 is as follows:-

D/No. SM0/CJ1/2020/ 964
TO,

Date: 15.08

OFFICE OF THE SUPERINTENDENT, CENTRAL JAIL NO - 01 TIHAR, NEW
DELHI Sub: Medical Status report of Inmate/Patient Kunal Bhandari, S/o Inderjeet.

Patient/inmate came in CJ-01 on 15/06/2020. Thereafter he did not report at CJ-01 Dispensary for any medical complaints. On 15/07/2020 he was reviewed at CJ-01 dispensary for his medical complaints of body ache, with alleged history of smack intake since last 6 months. His urine cassata test (UCT) was conducted and found positive for Tetrahydrocannabinol (THC), morphine (MOP), Benzodiazepine (BZD).

On the same day (15/07/2020) he was referred to central jail hospital (CJ-03), De-addiction centre (DAC) for further review and management.

As per report submitted by Medical Officer in-charge dated 14/08/2020, he was reviewed by doctor on duty at central Jail hospital on 15/07/2020 wherein he gave history of smack/heroin addiction since last six months and his last intake was 2 days back.

On examination, his vitals were found stable and he was admitted in the De-addiction Centre, Central jail hospital. Central Jail no 03, Tihar on the same day (15.07.2020) and provided necessary treatment.

Patient/inmate was reviewed by senior resident Psychiatry on 16.07.2020 wherein he gave history of smack/heroin and cocaine addiction since last six months with last intake 3 days back. He was counseled and was provided necessary treatment.

Patient/inmate was reviewed by specialist psychiatry on 18.07.2020 wherein he gave complaints of sadness of mood. He was diagnosed as a case of Low grade adjustment symptoms and was provided necessary treatment accordingly.

The inmate was discharged from de-addiction Centre, Central jail hospital on 21.07.2020 in stable condition. Thereafter, he was kept in Quarantine Ward (Ward no.01) of Central jail no. 3 as per protocol for completing remaining period of Quarantine after inter-jail transfer as a precautionary measure and he was discharged from the Quarantine Ward on 29.07.2020. On 14/08/2020, patient/inmate came to CJ-01. On 15/08/2020 he was reviewed at CJ-01 dispensary and no medical complaints are reported by patient/inmate and his vitals are stable. Patient/inmate is scheduled for review by jail visiting psychiatry SR on routine OPD days.

At present, the general condition and vitals of the inmate are stable.

This is for your kind information and onwards submission to the Hon'ble High Court of Delhi at New Delhi. (Emphasis supplied) Medical Officer I/C Jail Dispensary Central Jail no. 1, Tihar, New Delhi.

6. Perusal of the above report reveals that appellant who is an addict was taking smack/heroin even in the jail. The Medical Officer has reported in para 4 that

appellant's last intake in jail was 2 days back. Thus, in view of the nature of the offence and keeping in mind the previous conduct of the appellant and his addiction to drugs and consumption of the same even in jail, we are not inclined to suspend the sentence of the appellant. The application for interim suspension of sentence is, therefore, dismissed. However, nothing stated hereinabove may be construed as opinion of this court on the merits of the case."

In view of the foregoing, the application is dismissed as being devoid of merit and is disposed of accordingly.

Needless to say, we have expressed no opinion on the merits of the appeal.

SIDDHARTH MRIDUL, J.

ANUP JAIRAM BHAMBHANI, J.

MAY 28, 2021/'AA' [Click here to check corrigendum, if any](#)