

Jaideep Singh Senger @ Atul Singh vs Central Bureau Of Investigation on 1 October, 2020

Author: Anu Malhotra

Bench: Anu Malhotra

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL A. No. 451/2020 and Crl.M.(Bail) No. 8043/2020

JAIDEEP SINGH SENGAR @ ATUL SINGH Appellants
Through: Mr. Ajay Burman, Sr. Advocate with
Mr. SPM Tripathi, Advocate

versus

CENTRAL BUREAU OF INVESTIGATION Respondents
Through: Mr. Nikhil Goel, SPP for CBI with M
Dushyant Sarna

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER

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1.10.2020

(Hearing through Video Conferencing)

Crl.M.(Bail) 8043/2020

It has been submitted by the applicant qua Crl.M.(Bail) 8043/2020 filed on behalf of the applicant seeking suspension of sentence for a period of six months seeking that the applicant be allowed to get the treatment of his own choice, submitting inter alia to the effect that despite directions dated 18.8.2020 that the necessary medical treatment as advised to be provided to the petitioner has not been given adequate treatment and requires expensive treatment as also observed vide para 3 of the proceedings dated 21.9.2020. In view of the said submission the status report from the Jail authorities and also the response of the CBI was called for for the date 28.9.2020.

The response of the CBI qua the application for suspension of sentence is on the record with the status report received from the Superintendent Central Jail, Tihar on 30.9.2020. In view thereof the status of the applicant that was directed to be submitted to the Court has since been received under the signatures of the Dy. Superintendent (Prison), Central Jail Tihar Delhi of Dr. Akash Narade, Medical Officer in-charge, Central Jail Hospital & Dispensary as per which it is stated to the effect that the inmate was sent to AIIMS/surgical Oncology Department on 28.9.2020 on which date the surgical Oncologist has mentioned on his OPD that the reports that is X-Ray, ECG, CBC, RFT, LFT, PT-INR, Viral Marker were not enclosed with the file and it was advised review with reports on 7.10.2020 at and thus the inmate will be sent to AIIMS/Surgical/Oncology Department on 7.10.2020 for review with report of investigations as mentioned in the said advice.

Inter alia it is stated that the inmate is a known case of Oral Cancer (Squamous Cell Carcinoma of lower lip), internal hemorrhoids Grade-3, Prostatomegaly Grade-II, Steatosis (Fatty Liver) Grade-III, Liver Fibrosis and Erosive Gastritis. With this report is an application dated 29.9.2020 stating that he wants to get the treatment of his own choice for his ailments from a good hospital. It has been further stated through this report that the Oncologist and Oncosurgery facility are not available in the jail hospital as a consequence of which he is being reviewed regularly from AIIMS/Surgical Oncology Department.

It has been submitted on behalf of the applicant by the learned Senior counsel for the applicant if he is not released on bail it would endanger the life of the applicant that he has a right to get the treatment of his own choice for which he needs to be released on interim bail. It has been submitted further on behalf of the appellant in view of his condition with co-morbidities he is thus susceptible to the infection of the present pandemic and the frequent visits to the AIIMS also is jeopardizing his health. It has thus been submitted on behalf of the applicant in the circumstances, the applicant be allowed to be released on interim bail.

The prayer is vehemently opposed on behalf of the CBI submitting inter alia to the effect that virtually the same prayer had been made in W.P(Crl.) No. 1153/2020 which was disposed of vide order dated 18.8.2020 in as much as on 13.8.2020 it had been suggested by the counsel for the respondent, i.e., the CBI that considering the petitioner's medical condition he be granted custody parole to get the treatment of his own choice to which the petition had been adjourned so that the counsel for the petitioner could get instructions in this regard qua which counsel for the petitioner during the course of the proceedings dated 18.8.2020 in W.P(Crl.) 1153/2020 submitted that it has been discovered that the petitioner is suffering from oral cancer and requires extensive treatment.

On behalf of the State the learned ASC had then submitted that the Jail Authorities would ensure that the necessary medical treatment is provided to the petitioner, as advised and thus the counsel for the petitioner did not press that petition any further.

Whereas it is contended on behalf of the CBI that the necessary treatment would be provided, as advised, as referred to herein above, the avowed contention of the petitioner as was submitted during the course of the submissions on 21.9.2020 that the said requisite treatment is not being provided. It is submitted on behalf of the CBI that there have been a choice given to the applicant to seek custody parole which had also been declined and that the petitioner is under the treatment at the AIIMS Oncology Department.

As regards the contention that the petitioner is not being given adequate treatment, it is apparent that the Jail Authorities have been taking the petitioner to the AIIMS/Oncology Department and the matter is now fixed for the review of the investigations for the date 7.10.2020.

It appears that on the date 28.9.2020 the reports required to be analyzed by the Oncologist/Surgery were not enclosed in the file. It is considered essential that Superintendent Jail, No.3, Delhi ensures that all the medical records of the applicant are placed before the Surgery Oncologist of the AIIMS on the date 7.10.2020 without default so that an analysis of the present condition of the applicant

can be obtained as well and it is directed that the Surgery Oncologist specifies that as to what is the condition of the applicant as to whether the same is life threatening;

as to whether the same requires any hospitalization and the duration thereof;

the treatment that is required for the same and the report in relation thereto is called for the date 12.10.2020.

ANU MALHOTRA, J OCTOBER 01, 2020/SV