

# Directorate Of Enforcement vs Raj Singh Gehlot on 28 September, 2022

**Author: Anoop Kumar Mendiratta**

**Bench: Anoop Kumar Mendiratta**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 4711/2022, CRL.M.A. 19048/2022 & 19858/2022

DIRECTORATE OF ENFORCEMENT

..... Petitioner

Through: Mr. Zoheb Hossain and Mr. Vivek  
Gurnani, Advocates with Mr.  
Bhoopesh, AD, ED.

versus

RAJ SINGH GEHLOT

..... R

Through:

Mr.Siddharth Luthra, Sr.  
with Mr. Tanveer Ahmed M  
Shreyan Hashmi, Mr. Aksh  
Mr. Kumar Kashyap, Mr.Fa  
Ms.Shikhar Sharma, Mr. Y  
and Ms. Swati Khanna, Ad

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

% 28.09.2022 CRL.M.C. 4711/2022, CRL.M.A. No.19858/2022

1. Petition under Section 439 (2) read with Section 482 Cr.PC has been preferred on behalf of the Directorate of Enforcement/petitioner for setting aside the order dated 30.08.222 granting extension of interim bail to the respondent for a period of six weeks w.e.f. 19.08.2022 passed by the learned Additional Sessions Judge-06, Patiala House Court, New Delhi.

An application under Section 482 Cr.PC seeking stay of the proceedings before the learned Special Judge has also been filed with the following prayers:-

"(i) Stay the proceedings before the Ld. Special Court, PMLA with respect to the application seeking extension of interim bail filed by the respondent; and

(ii) In the alternative, direct the Ld. Special Court to await the outcome of the decision of this Hon'ble Court in Crl.M.C. 4711/2022 and not proceed with the application dated 22.09.2022 seeking extension of interim bail

(iii) Pass any such other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. The matter has been taken up in the post lunch session as urgency has been expressed in the matter, since the interim bail granted by the learned Trial Court vide order dated 30.08.2022 for a period of six weeks w.e.f. 19.08.2022, is stated to be expiring on 30.09.2022.

3. It may also be appropriate to refer to observations made by this Court vide order dated 17.08.2022 in CrI. M.C. No. 3713/2022, on petition preferred by the Directorate of Enforcement under Section 439 (2) read with Section 482 Cr.PC for setting aside the order dated 24.06.2022 passed by learned Trial Court granting interim bail to the respondent/accused for a period of eight weeks till 18.08.2022:-

"5. I have given considered thought to the contentions raised.

It has been vehemently contended by learned counsel for the petitioner/ED that the exercise of discretion in repeated grant of interim bail on medical/other grounds is not in sync with observations in Athar Parvez vs. State (supra) and, as such, the proceedings be stayed before the learned Trial Court with respect to application seeking extension of interim bail.

There is no dispute on the proposition that considering the strict provisions of Section 45 of the PMLA, there need to be compelling reasons which would justify and require the grant of interim bail, should the application be allowed after factual assessment. However, to ensure that the interim bail is granted on compelling medical reasons, it shall be appropriate, as suggested by learned counsel for the petitioner/ED that a Medical Board be constituted for evaluating the medical condition of the respondent. Medical Superintendent/Director, Dr. RML Hospital, New Delhi is accordingly, directed to constitute a Medical Board of doctors from three different specialties for examination/evaluating the medical condition of the respondent as per medical records and furnish the medical report before the concerned Trial Court on or before 22.08.2022. In the interregnum, till the receipt of the report from the Medical Board, since the interim bail of the respondent is stated to be expiring on 18.08.2022, the learned Trial Court shall be at liberty to consider the application for interim bail in accordance with the provisions of law."

4. Pursuant to the orders passed by this Court, the Medical Board was constituted wherein the petitioner presented himself for examination. The learned Trial Court after consideration of the report of the Medical Board dated 22.08.2022 passed the impugned order dated 30.08.2022, whereby the interim bail to the respondent was extended on medical grounds and the relevant observations made by the learned Trial Court may be reproduced as under:-

"3.21 In view of medical report dated 22.06.2022 & 23.06.2022 filed by the Jail Superintendent concerned before the Ld. Vacation Judge, Patiala House Courts, New

Delhi it can be seen that despite court order dated 08.06.2022 the said hospitals mentioned in the reports as well as the jail authorities were not in a position to provide timely treatment to the accused/ applicant, on urgent basis.

3.22 The medical ailments of the applicant/ accused are mentioned in para no. 4.7 of the bail application. In para no. 4.7.1 clause (c) of the application it is mentioned that father of the applicant/accused died at the age of 62 years. He was suffering from heart problems. His two elder brothers namely Sh. Mehtab Singh and Sh. Saheb Singh died due to heart attack in the year 2002 & 2022 at the age of 43 years and 70 years respectively. Sh. Aman Gehlot son of the applicant/ accused is also suffering from heart problem. He has been diagnosed with Type-B Aortic Dissection.

3.23 In the reply filed by the complainant / ED there is a general reply to para no. 4.7 of the bail application. The contents of para no. 4.7 of the bail application regarding the health condition of the applicant/ accused are denied. However, there is no specific reply to Para no. 4.7.1 Clause (c) regarding the family history of heart problem of the accused. During the course of arguments also there was no specific denial about the persistence of heart problem in the family of the applicant/ accused. As per medical reports the LVEF of accused is 45%. In the medical report dated 22.08.2022 of Dr. RML Hospital also the LVEF of the accused is stated to be 45-50%. It was submitted on behalf of the accused/ applicant that this LVEF is with regard to heart. This range of LVEF is dangerous to heart. No specific submission were made on behalf of the complainant/ED regarding the implication of LVEF being in this range. The detailed medical condition of the accused is mentioned in the sub-paras of Para no. 4.7 of the bail application. The same are not being repeated for the sake of brevity. The applicant/ accused has produced his medical documents with regard to the said ailments/disease. At page no. 4, para no. 7 of the order dated 24.06.2022 of 1d. Vacation Judge, Patiala House Courts, New Delhi, the contentions the complainant/ED made therein are recorded. It is mentioned that Ld. ASG has further submitted that the jail medical officer has not given the correct report and he doubts the report given by the Medical Officer of the concerned jail. However, during the arguments of the present interim bail extension application no such submissions were made. The report dated 22.08.2022 of medical board of doctors filed by Dr. RML Hospital also does not contradict the previous medical history/documents of the accused. It was argued on behalf of the complainant that as per the medical report dated 22.08.2022 the accused is stable and doing well with the current treatment i.e oral medication. In this regard it was submitted on behalf of the accused that he was stable because of the treatment he got while on interim bail. Going back to jail and not getting timely treatment can affect the stability. I have perused this report it is stated that at the given moment patient's vitals are stable. In the second last para of this report it is stated "examination of the patient revealed stable vital para meters (BP-140/80 mmHg; Pulse rate 78/min:

SpO2-96% in Room Air)" this gives a clue regarding the words "Patient's vital" mentioned in the report in all probabilities this implies the blood pressure, Pulse rate and oxygen level of the applicant / accused/patient.

4. In view of the above, the interim bail given to the accused by the Ld. Vacation Judge, Patiala House Courts, New Delhi vide order dated 24.06.2022 is extended for a period of six weeks w.e.f. 19.08.2022 subject to terms and conditions as mentioned in order dated 24.06.2022.

5. One copy of this order be sent to the Jail Superintendent concerned through e-mail and Dak as well.

6. Copy of this order be given dasti to the parties."

5. Learned counsel for the petitioner, in the aforesaid factual background, submits that the respondent has been availing privilege of interim bail vide various orders passed by the learned Trial Court which may be date wise noticed in seriatum:

(i) 15.04.2022: The interim bail was granted to the respondent for a period of seven days on account of death of the elder brother of the respondent.

(ii) 21.04.2022: The interim bail granted vide order dated 15.04.2022 was further extended for a period of 7 days on account of customary rites after death of the brother of the respondent. (Note: It may be noticed that Crl. M.C. 1852/2022 against the aforesaid orders dated 15.04.2022 and 21.04-.2022 stands preferred on behalf of the Directorate of Enforcement (petitioner)).

(iii) 24.06.2022: Respondent was again granted interim bail for a period of eight weeks on medical grounds. (Note: The aforesaid order stands challenged by the Directorate of Enforcement (petitioner) in Crl. M.C. No.3713/2022, which is pending consideration). The respondent again preferred an application for extension of interim bail on medical grounds on 08.08.2022. In the meantime, vide order dated 17.08.2022 passed by this Court in Crl. M.C. No.3713/2022, a Medical Board was directed to be constituted consisting of Doctors of Dr.RML Hospital, New Delhi.

(iv) 18.08.2022: Learned Special Court granted extension of interim bail on medical grounds till 27.08.2022, till filing of report by the Medical Board of Doctors of Dr.RML Hospital.

(v) 30.08.2022: Learned Special Court PMLA passed the impugned order extending the interim bail granted to the accused/respondent vide order dated 24.06.2022 for a period of six weeks w.e.f. 19.08.2022 on the same terms and conditions. (Note: the same is under challenge in present CRL.M.C.4711/2022).

6. It is further contended by learned counsel for petitioner that the interim bail has been sought by the respondent almost in continuity for a period of 109 days on different pretexts. It is urged that it

needs to be ascertained if the petitioner is suffering from ailments for which treatment cannot be provided in Jail Hospital or any other Government Hospital in custody.

7. On the other hand, the petition has been vehemently opposed by the learned senior counsel for the respondent. It is pointed out that the respondent has again been hospitalized on 26.09.2022. It is urged that the respondent is 63 years old and has been suffering from various ailments i.e. (i) cervical spondylotic myeloradiculopathy, (ii) lumbosacral degenerative disease, (iii) coronary artery disease, (iv) diabetes mellitus with diabetic neuropathy, (v) hypertension, (vi) post covid bronchiectasis, (vii) gastric polyps, gastritis and H pylori positive duodenitis and (viii) hemorrhoids (external and internal with intestinal polyp). It is also submitted that the respondent is unable to undergo the requisite surgery as advised, in view of medical conditions and ailments suffered by him. It is also suggested that an independent Medical Board may be further constituted to evaluate the medical conditions of the respondent for the purpose of undergoing surgery. It is further contended that considering the medical history, the specialized treatment advised to the respondent is not feasible in Jail or in a Government Hospital in custody. Reliance is also placed upon the order dated 26.09.2022 passed by Hon ble Mr. Justice Jasmeet Singh in Bail Application No. 40/2020 titled Devki Nandan Garg Vs. Directorate of Enforcement.

8. The report dated 22.08.2022 of the Medical Board, which was directed to be constituted in terms of orders dated 17.08.2022 passed by this Court; is pertinent to be noticed to appreciate the medical condition of the petitioner. The same may be beneficially reproduced:

"The patient Mr. Raj Singh Gehlot, 63 years old gentleman was examined by the undersigned board members. His medical records were reviewed.

As per his medical records and the history submitted by the patient, it is noted that he has been suffering, from Diabetes Mellitus, hypertension for last 25 years, cervical and lumbar myeloradiculopathy for 25 years, probably chronic kidney disease (recently diagnosed) due to long standing diabetes and hypertension, coronary artery disease, gastric polyps. Recently he was admitted with chest pain in July 2022 and the investigations were non contributory. However, a repeat 2D echocardiography in Aug'2022 revealed evidence of coronary artery disease with poor LV systolic function (mild concentric hypertrophy, basal and inferior wall & basal IVS akinetic with LVEF-45-50%) and was also had deranged kidney function tests (S. creatinine in August -1.8 mg which was 0.6 mg % in June 2022). Regarding neurological status, - as per records he is having cervical and lumbar spondylosis (only report was available, no MRI films were available). According of patient weakness has aggravated for the last few months. He was advised surgery on the basis of MRI done in June:2022.

Examination of the patient revealed stable vital parameters (BP-140/80 mmHg: Pulse rate 78/min: SpO2-96% in Room Air) and physical examination of cardiovascular and respiratory system were unremarkable.

The board members are of the opinion that at the given moment patient's vitals are stable and he is doing well with the current treatment being given to him."

9. At this stage, a prima facie view needs to be taken, since the interim bail of the respondent is expiring on 30.09.2022.

A bare perusal of the medical report reveals that the medical ailments suffered by the respondent duly stand noticed by the Medical Board. After noticing the details of the ailments suffered by the respondent, it has been categorically observed: "examination of the patient revealed stable vital parameters (BP-140/80 mmHg: Pulse rate 78/min: SpO 2-96% in room air) and physical examination of cardiovascular and respiratory systems were unremarkable. The Board members are of the opinion that at the given moment, patient's vitals are stable and he is doing well with the current treatment being given to him."

On the basis of the aforesaid observations, I am of the considered view that as on 22.08.2022, it could not have been said that the treatment of the respondent was not feasible in any Government Hospital, in custody. Neither the condition of the respondent required immediate hospitalization. As such, the observations made by the learned Trial Court in the impugned order do not appear to be in the correct perspective.

However, since it has now been informed by the learned senior counsel for the respondent that the respondent has again been hospitalized on 26.09.2022, it may not be appropriate to deprive the respondent of the benefit of interim bail till 30.09.2022 which has been granted by the learned Trial Court.

10. In the facts and circumstances, the respondent is directed to surrender before the Superintendent Jail on the date of expiry of interim bail granted by the learned Trial Court. However, in case it is assessed that the respondent cannot be discharged due to his admission in the hospital on account of any aggravated medical condition or if the circumstances so require, the respondent shall continue to be admitted in the hospital in judicial custody till the time his condition improves. The same shall be further subject to evaluation of the medical condition of the respondent by the same Medical Board from Dr.RML Hospital within a period of one week from 30.09.2022.

Superintendent Jail is further directed to ensure that necessary medical treatment is provided to the respondent at „Max Hospital after the respondent surrenders to ensure continuity of medical treatment at his own cost and subject to orders of this Court.

A copy of this order be forwarded to the learned Trial Court and Superintendent Jail for information and compliance.

List on 07.10.2022.

ANOOP KUMAR MENDIRATTA, J.

SEPTEMBER 28, 2022/A