

Islam Ansari @ Islamuddin @ Wahid vs The State Govt Of Nct Of Delhi on 23 October, 2020

Author: Vibhu Bakhru

Bench: Vibhu Bakhru

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IN THE HIGH COURT OF DELHI AT NEW DELHI

BAIL APPLN. 2641/2020

ISLAM ANSARI @ ISLAMUDDIN @ WAHID Petitioner

Through: Mr Abdul Salam, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr Ravi Nayak, APP for State with

SI Surrender, Special Cell, Lodhi
Colony.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% 23.10.2020 [Hearing held through videoconferencing]

1. The petitioner has filed the present petition, inter alia, seeking interim bail for a period of two months, in connection with FIR No.38/2016, under Sections 21/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), registered with Special Cell (SB), Delhi on the ground that his wife is ailing and he requires to attend to her.

2. It is the prosecution's case that they had kept certain mobile numbers on surveillance as they suspected that the said mobile numbers were being used by a drug syndicate supplying drugs to Delhi, UP, Punjab, Haryana and West Bengal. It is stated that on the basis of secret information received on 23.06.2016, one Ganesh Halder and Manik Biswas were apprehended under the Gokalpuri Flyover. According to the prosecution, the said persons had come to supply drugs to another accused Johri. It is stated that 4 kg of heroin was recovered in all; 2 kgs from accused Johri; 1 kg from Ganesh Halder; and 1 kg from Manik Biswas.

3. It is stated that the said accused were subjected to sustained interrogation and on account of being so subjected the accused Johri disclosed that he used to supply heroin to the petitioner in Sahibabad, U.P. and sometimes in Bareilly, UP. The Status Report indicates that the petitioner was apprehended at about 4:00 PM, on 20.08.2016 near Shiva Dhaba, which is located about 2 kms. from Rampur Bypass towards Bareilly, UP and 2 kgs of heroin was recovered from his motorcycle. The said motorcycle was also seized.

4. The Status Report does not indicate as to how the police officials had proceeded to Bareilly to apprehend the petitioner and whether the necessary safeguards, as required under the NDPS Act, were complied with. However, Mr Nayak, learned APP submits that since the present petition has been filed seeking interim bail on the ground that the petitioner's wife is ailing, it may not be necessary to examine the merits of the case at this stage and Section 37 of the NDPS Act would not apply, if the compelling circumstances are shown.

5. Insofar as the petitioner's assertion that his wife is ailing, the same has been verified. The relevant extract of the Status Report is set out below:-

"The written report was received from GTB Hospital, Dilshad Garden and Rajiv Gandhi Super Specialty Hospital was received and also the written verification report dated 20/10/2020 from Swami Nand Lal Jee Hospital Pvt. Ltd was received wherein it was inter-alia reported that Salma Begum w/o Islam Ansari was admitted in the hospital 1st time on 28/01/2018 and 2nd time on 19/12/2019 and was examined and treated by concerned doctors and was found to be suffering from B/L breast cancer and had visited after 27/12/2019 for follow up and removal of stitches and for the last time visited on 03/01/2020 and referred to medical oncologist for further treatment and has not turned up since then. Similarly, the verification from Delhi State Cancer Institute, Dilshad garden was made wherein it was inter-alia stated that the patient last visited on 30/09/2020 and advised routine blood test viz. CBC/KFT/LFT due on 28/10/2020 and she was a diagnosed case of Carcinoma(Left) breast (post-surgery, post chemotherapy, post radiotherapy and was suffering from carcinoma(Right) breast(Post Op) with metastasis (stage IV) with chronic kidney disease for which she was taking treatment from Dr. R.M.L. Hospital, Delhi and the patient was on Tab. Letrozole and was planned for palliative chemotherapy treatment(once kidney test parameter become normal). The copy of the report received from GTB Hospital, Delhi and Rajiv Gandhi Hospital, Delhi Nand Lal Jee Hospital, Sahibabad, U.P. and Delhi Cancer Institute, Dilshad Garden are enclosed herewith as Annexure-A(Colly)"

6. It is apparent from the above that the petitioner's wife has been ailing for some time and has not prevailed in her struggle against cancer as yet.

7. In view of the above, this Court considers it apposite to allow the present petition. The petitioner shall be released on interim bail for a period of two months from the date of his release, subject to his furnishing a personal bond in the sum of 20,000/- with one surety of an equivalent amount, to the satisfaction of the Trial Court/Duty Magistrate. This is also subject to the following further conditions:-

a) the petitioner shall provide his contact number and ensure that he is reachable on it at all times;

b) the petitioner shall mark his presence before the concerned Police Station where he resides, on Monday of each calendar week;

c) the petitioner shall telephonically report his whereabouts, on Monday of each week, to SI Surender, PS Special Cell, Lodhi Colony (Mobile No.9555672791);

d) the petitioner shall not contact or try and influence any of the witnesses, either directly or indirectly; and

e) the petitioner shall confine himself to the State of Uttar Pradesh and the NCT of Delhi.

8. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J OCTOBER 23, 2020 MK