

Court On Its Own Motion vs State (Govt. Of Nct Of Delhi) on 24 September, 2021

Author: Vipin Sanghi

Bench: Vipin Sanghi, Rekha Palli, Talwant Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 4921/2021

COURT ON ITS OWN MOTION

..... Petition

Through:

versus

STATE (GOVT. OF NCT OF DELHI)

..... Response

Through: Mr. Santosh Kumar Tripathi,
Standing Counsel, for the respondent
GNCTD.

Mr. Anil Soni, CGSC for the UO
Mr. Siddharth Yadav, Advocate
the applicant in C.M.
28429/2021.

Mr. Pritish Sabharwal, Advocate
the applicant in C.M. No.28436

Mr. Mohit Mathur, Senior Advocate
with Mr. Chetan Anand, Mr. Naw
Singh, Mr. Akash Srivastava &
Mr. Rahul Vidhiya, Advocates for
complainant in C.M. No.28436/2

Mr. Dhruv Surana & Mr. Ashish
Choudhury, Advocates for the
applicant in C.M. No. 33550-51

Mr. A.F. Faizi & Mr. Nasir Alam
Advocates for the applicant in
Nos. 33488/2021 & 33489/2021.

Mr. Syed Urfee Haider, Advocate
the applicant in C.M. No.33395

Mr. S.K. Sethi, Advocate for the
DLSA.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE TALWANT SINGH

Signature Not Verified

Digitally Signed

By: BHUPINDER SINGH

ROHELLA

Signing Date: 27.09.2021

16:17:20

ORDER

% 24.09.2021 C.M. Nos. 28437/2021, 33489/2021 & 33551/2021

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.
3. Mr. Tripathi states that he has not yet filed status report in relation to this application. Let the same be filed before the next date.
4. List this application on 22.10.2021.
5. The interim bail granted to the applicant shall continue on the same terms & conditions, on which it was initially granted.
6. Issue notice. Mr. Tripathi accepts notice.
7. The submission of learned counsel for the applicant is that the applicant is on interim bail vide order dated 13.05.2021 passed in Bail Application No.3911/2020 titled Ankit Gupta Vs. The State of NCT, Delhi.
8. In the light of the aforesaid, the interim bail granted to the applicant is continued on the same terms & conditions, on which it was initially granted till the next date.
9. The application stands disposed of.
10. We have heard learned counsel on behalf of the applicant, Mr.Tripathi on behalf of the State, and Mr. Mathur, learned senior counsel on behalf of the complainant.
11. The applicant is seeking release on interim bail in case FIR No.219/2017 under Section 302/ 34 IPC registered at PS - New Friends Colony, New Delhi on the basis of the orders passed in the present suo-moto proceedings.
12. The case of the applicant is that the applicant was released on interim bail on account of the demise of his mother vide order dated 12.06.2021 passed in Bail Appln. No.2049/2021. The applicant was required to surrender before the Jail Superintendent, Rohini Jail on 26.06.2021. However, since the regular bail application of the applicant was also pending and was listed on 21.06.2021, it was observed by the Court that the order granting interim bail is subject to orders that may be passed in the pending bail application being Bail Appln. No.1557/2021.
13. Learned counsel submits that on 21.06.2021, the matter was again adjourned to 23.06.2021. It was further adjourned by the Vacation Bench to 12.07.2021. The matter was again taken up on 15.07.2021 when the regular bail application moved by the applicant was dismissed as withdrawn.

Learned counsel submits that the application was withdrawn since the learned Single Judge was not inclined to grant regular bail to the applicant. The said bail application had been moved by the applicant on the basis that he was entitled to benefit of the guidelines issued by the High Powered Committee.

14. Since the interim bail granted to the applicant was not extended, consequently, the applicant surrendered on 26.06.2021.

15. Learned counsel for the applicant submits that in the light of the orders passed by the Full Bench in these proceedings, since the applicant was granted interim bail on 12.06.2021, he was entitled to remain on interim bail and should not have been asked to surrender. In any event, he is entitled to interim bail by this Court in compliance of the orders passed by this Bench in these proceedings.

16. Mr. Mathur, learned senior counsel for the complainant vehemently opposed the application. He submits that last year, when the applicant was granted interim bail, he did not surrender on time. He submits that the purport of the order passed by the Full Bench is not to continue interim bail of a person whose regular bail application is rejected. He further submits that in several matters, the bails being granted by the learned Single Judges of this Court are being granted on the condition that the applicant would not seek to take the benefit of the orders passed in these proceedings.

17. Having heard learned counsels and considered their submissions, we are of the view that the applicant's case is covered by the orders passed by this Court in these proceedings on 20.04.2021 and 09.07.2021, since it has been clarified that the interim orders would enure for the benefit of all those who were availing of interim orders/ interim bails as on the date of passing of the order dated 20.04.2021, or even thereafter.

18. In our view, the consideration of the applicant not surrendering on time, when he was granted bail last year, cannot be a reason to deny him interim bail. This consideration could have weighed with the Court at the time of granting interim bail on the ground of demise of his mother.

19. We may also observe that in the light of the orders passed by the Full Bench, it would not be appropriate for any Court to put a condition while granting interim bail to an applicant, that he/ she should not seek to take benefit of the orders passed by the Full Bench. In cases where the Court, on prima-facie appreciation of facts of the case, he is not inclined to release the accused/ convict on interim bail, it is open to the Court to send the applicant in custody to attend ceremonies, or events such as death, marriage, etc.

20. For the aforesaid reasons, we allow the application and direct release of the applicant on interim bail on the same terms & conditions, on which he was initially granted interim bail on 12.06.2021 by the learned Single Judge.

21. The application stands disposed of.

22. The interim bail granted to the applicant is extended further on the same terms & conditions as prescribed earlier, till the next date.

23. List on 22.10.2021.

24. Learned counsel for the applicant submits that this application has become infructuous, since the applicant had already surrendered.

25. The application is disposed of, as infructuous.

26. Issue notice. Mr. Tripathi accepts notice.

27. The applicant submits that he was granted interim bail in case FIR No. 0012/2020 registered under Sections 420, 120-B, 34 IPC read with Section 66(D) of the Information Technology Act, 2000 at PS - Vasant Vihar, vide order dated 18.08.2021 in Bail Appln. No.1440/2021 by the learned Single Judge of this Court. However, the interim bail was granted for the period of four weeks with effect from 25.08.2021. On the expiry of the said period, the applicant had surrendered. The submission of learned counsel for the applicant is that in the light of the orders passed by the Full Bench in these proceedings, the applicant is entitled to continuation of his interim bail.

28. Mr. Tripathi, who appears for the State, fairly cannot oppose this submission.

29. Accordingly, the application is allowed. The applicant is directed to be released on interim bail on the same terms & conditions, on which it was initially granted by the learned Single Judge on 18.08.2021.

30. The applicant seeks impleadment in these proceedings and a clarification that the interim orders passed by this Bench in these proceedings enure to the benefit of the applicant. The relevant facts are that the applicant was granted parole by this Court, for a period of one month to remain with his mother during his cataract surgery in W.P.(Crl.) No.1328/2021 vide order dated 26.07.2021. The same was extended on 13.08.2021 till 30.08.2021. The submission of the applicant is that in the light of the orders passed by this Bench, he is entitled to continuation of his interim parole.

31. Mr. Tripathi fairly states that he cannot oppose this application in the light of the orders passed by the Court.

32. Accordingly, the application is allowed. The applicant is directed to be released on parole till the next date on the same terms & conditions, on which he was initially granted bail vide order dated 26.07.2021.

33. The application stands disposed of.

VIPIN SANGHI, J.

REKHA PALLI, J.

TALWANT SINGH, J.

SEPTEMBER 24, 2021 B.S. Rohella