

## Abdul Rehman Alias Nawali vs State on 29 June, 2020

**Author: Sanjeev Sachdeva**

**Bench: Sanjeev Sachdeva**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPLN. 865/2020

ABDUL REHMAN alias NAWALI

..... Petitioner

Through: Mr. Tarun Rana, Advocate.

versus

STATE

.....Respondent

Through: Mr. Rahul Mehra, Standing Counsel  
with Mr. Tarang Srivastava, Addl. PP  
for the State  
Dr. Gajinder Kumar Nayyar, in  
person.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% 29.06.2020

1. The hearing was conducted through video conferencing.
2. Petitioner had sought Bail/Interim Bail in FIR No. 188/2019 under section 307/452/341/506/120B/34/174A Indian Penal Code and Sections 25 and 27 of the Arms Act. Police Station Jamia Nagar.
3. Status report was filed by the Prosecution on 08.06.2020. The status report records as under:-

"1. Case FIR No. 188/19 U/s 307 /341/506/34/120-B/174A IPC PS Jamia Nagar:-In the present petition, it is submitted by the Ld. Counsel of the petitioner that petitioner's wife is having 'ovarian cyst', for which she needs urgent surgery as prescribed by supra Dr. Gajinder Kumar Nayyar, N.C. Hospital and the petitioner's wife has visited the doctor/hospital on dated 12.03.2020 & 14.04.2020 for treatment, as per the medical documents submitted with the present bail petition. In this context, it is to submit that SI Rohit Chahar D-5777 PS Jamia Nagar along with staff has visited the above said hospital and it has been revealed that the above hospital is 03 bed hospital situated near Dwarka Mode Metro New Delhi. The Dr.Gajinder Kumar Nayyar was not found present there but one Staff Nurse namely Ms. Vanika Mob:-

9716576448 as receptionist cum person maintaining a OPD register of patients visit the hospital for treatment. She was given one notice to clarifies queries and she responded as:-

(a) As per the records, No patient with name Rukhsar has visited N.C. Hospital on duty 12.03.2020 & 14.04.2020.

(b) This hospital (N.C. hospital) does not have ultrasound facility or facility to perform Cystectomy surgery.

(c) The prescription slip of patient Rukhsar does not contain any OPD number. It means she has not visited this hospital.

She has further provided the certified copy of OPD register contains details/entry of patient visited the hospital. Further, SI Rohit Chahar D-5777 visited K.S. Hospital where Dr.Gajinder Kumar Nayyar was not found present and when telephonically contacted and asked to come to his hospital for some clarification/verification, he denied to join the enquiry and had not come to his hospital. Further, the examination Lab i.e. J.S. diagnostic centre situated in opposite side of K.S. Hospital was found locked and none of the given telephone numbers could have been contacted, for being 'not reachable.(Reply of Staff Nurse + Certified copy of OPD register attached as Annexure A)

## 2. Case FIR No. 380/17 U/s 21 NDPS Act PS Badarpur:-

The bail petition of this case i.e. State Vs Anwar @ Qutub is listed on 8.06.2020 in the court of Ld. ASJ South Delhi wherein applicant is seeking bail on the ground of his wife's surgery of 'Ovarian Cyst' as prescribed by Dr.Gajinder Kumar Nayyar (K.S. hospital). (Bail petition + Reply of Dr. Nayyar i.r.w. verification attached as Annexure B)

3. Case FIR No.196/18 U/s 21/25/29 NDPS Act PS New Friends colony:- The bail application of this case i.e. State Vs Ali@ Tajuddin is listed on 8.06.2020 in the court of Ld. ASJ South Delhi wherein applicant is seeking bail on the ground of his mother's surgery of 'Gall Bladder stone' as prescribed by Dr.Gajinder Kumar Nayyar (N.C. hospital). (Bail petition+ Reply of Dr. Nayyar i.r.w. verification attached as Annexure C).

4. Case FIR No. 188/19 U/s 307 /341/506/34/120-B/174A IPC PS Jamia Nagar :- The bail mater of State Vs Asif @ Dillu is pending before the Hon'ble High Court & listed for 26.06.2020. On dated 8.05.2020, the 2nd bail application of applicant/accused has been dismissed by the court of Sh. Gaurav Rao, ASJ, Saket Court Complex ND as he was seeking for the interim bail for Laproscopy surgery of Gall Stone (pit kithailimeinpathri) of his father claiming the same as very serious surgery thus produced misleading facts before the court. Pertinently, his father is also getting treatment from Dr.Gajinder Kumar Nayyar K.S. Hospital. A verification in this context was also done by SI Rohit Chahar and it has been revealed that father of Asif @ Dillu namely Imamulhaq has not visited the K.S. hospital for treatment as per the record maintained by hospital i.r.w. the visit of patients

through OPD register. (Certified copy of OPD register attached as Annexure D).

5. Case FIR No. 228/18 U/s 302/201/174A/120B/34 IPC & 25/27 Arms Act PS Sangam Vihar: In this case, main accused namely Atar-ur- rehman S/o Fazal-ur-Rehman succeeded to get parole from the court of Ms. Sunaina Sharma, ASJ, Saket South Delhi on the ground of his mother's injury on the basis of prescription slip/medical documents of Dr.Gajinder Kumar Nayyar K.S. Hospital. Later, he jumped the parole and has not been re-arrested yet. (Medical Documents attached as Annexure E).

6. Case FIR No. 169/10 U/s 302/307 IPC PS Ashok Nagar:- The matter i.e. Nakul Khari Vs State is pending before the Hon'ble High court of Delhi listed for 11.06.2020. The Hon'ble court of Mr. Justice Anup Jairam Bhambhani in its order vide dated 27.05.2020 the suspicion on the credibility of Dr.Gajinder Kumar Nayyar has already been raised. (Order attached as Annexure F) From the verification conducted so far, it can be elucidated that Dr.Gajinder Kumar Nayyar has been found to have issued several certificates in various serious criminal cases and accused persons are taking plea on its basis. Further probability that Dr.Gajinder Kumar Nayyar is part of such syndicate (if any) cannot be ruled out at this stage."

4. Noticing the allegations in the Status Report dated 07.06.2020 (filed on 08.06.2020), on 09.06.2020, notice was issued to Dr. Gajinder Kumar Nayyar to show cause as to why the matter be not referred for further investigation into the allegations made in the Status Report.

5. It is also noticed in order dated 09.06.2020, Dr. Gajinder Kumar Nayyar is practising as under:

(i) Medical Superintendent (NCH) at N.C. Hospital, 53 - 54 Sewak Park, Dwarka Mor, Opp. Metro Pillar No. 775, New Delhi - 110059;

Phone # 7292010707 email: nirmalmedocis.delhi@gmail.com

(ii) Consultant Radiologist at J.S. Diagnostic Centre, 53 - 54 Sewak Park, Dwarka Mor, New Delhi;

Helpline Lab No. 9891616886 email: jsdiagnosticcentre0786@gmail.com

(iii) K.S. Nursing Home, Bisrakh Road, Haldoni, Greater Noida, (G.B. Nagar)- 201306 Phone # 7292010707

6. Prosecution has filed a Status Report dated 22.06.2020. Along with the Status Report prosecution has annexed copies of Orders dated 19.03.2019 and 22.10.2019 of the Delhi Medical Council.

7. Order of the Delhi Medical Council dated 19.03.2019 records that Dr. Gajinder Nayyar is running Nirmal Nursing Home and Nirmal Pathology Laboratory at 53/54, Sewak Park, Dwarka Mor, New Delhi.

8. Delhi Medical Council in its order dated 19.03.2019 has recorded that a complaint was forwarded by the Court of Additional District Judge-03 by order dated 22.11.2017 in case titled 'State Vs. Suresh Malik' (bearing SC No. 71/2016 in FIR No. 618/2014) Police Station Jyoti Nagar to the Delhi Medical Council. It is noticed that the Court of Additional District Judge-03 had held that it appeared that Dr. Gajinder Kumar Nayyar in collusion with accused Suresh Malik had deliberately misled the Court on the aspect of surgery of the patient.

9. Said Court has further recorded in its order dated 22.11.2017 that the sole purpose of Dr. Gajinder Kumar Nayyar was to facilitate the accused who is involved in a murder case to come out from behind the bars and enjoy the liberty. Said Court has held that there was no doubt that accused had managed to get interim bail by playing fraud in collusion with Dr. Gajinder Kumar Nayyar. Accordingly, the conduct of Dr. Gajinder Kumar Nayyar was reported to the Delhi Medical Council for appropriate action.

10. Status Report dated 22.06.2020 of the prosecution further records that Dr. Gajinder Kumar Nayyar had responded to the notice of Delhi Medical Council. The Disciplinary Committee of Delhi Medical Council after considering the facts and circumstances of the case was of the view that Dr. Gajinder Kumar Nayyar had issued clinical summaries, medical certificate and even admitted the patient for extraneous consideration and not on medical consideration.

11. Further, the Delhi Medical Council has noticed that Dr. Gajinder Kumar Nayyar has issued radiological report without holding any qualification in the field of Radiology and that he is not competent or authorized to issue radiological reports.

12. Accordingly, Delhi Medical Council held the conduct of Dr. Gajinder Kumar Nayyar to be highly unbecoming of medical practitioner and revoked the name of Dr. Gajinder Kumar Nayyar under Registration No. 36089 from the State Medical Register for a period of 180 days.

13. Prosecution in the Status Report dated 22.06.2020 has relied upon another order dated 30.10.2019 of the Delhi Medical Council wherein the Delhi Medical Council has suspended the registration of Dr. Gajinder Kumar Nayyar for a period of 365 days. As per the prosecution, the suspension order is to remain in force till 29.11.2020.

14. Dr. Gajinder Kumar Nayyar has also filed a reply over WhatsApp with the Court Master. The same is taken on record.

15. Pursuant to order dated 26.06.2020, a fresh status report dated 28.06.2020 has been filed by the State, the same is taken on record.

16. It is contended in the status report dated 28.06.2020 that Dr. Gajinder Kumar Nayyar has been frequently preparing medical prescription in heinous cases in which accused are granted and/or manage to get free from judicial custody and in certain cases medical certificates were found to be fake.

17. It is contended that several certificates were issued by Dr. Gajinder Kumar Nayyar in serious criminal cases wherein the accused persons were taking plea for grant of bail, interim bail and suspension of sentence. It is alleged that the probability of Dr. Gajinder Kumar Nayyar being part of a syndicate, if any, could not be ruled out.

18. Mr. Rahul Mehra, learned Standing Counsel appearing for the State submits that despite the suspension of the licence of Dr. Gajinder Kumar Nayyar with effect from 19.04.2019 till 29.11.2020, he is continuing to practise as a doctor and issue medical certificates based on which several applications are being moved in Courts seeking bail, interim bail and suspension of sentence by various accused.

19. Certain cases have also been mentioned in the status report wherein it is alleged that based on medical certificates issued by Dr. Gajinder Kumar Nayyar, applications for bail, interim bail or suspension of sentence have been filed. Allegations of the prosecution is that some of the certificates are fake and were issued for the purpose of facilitating the accused or convicts in getting favourable orders and being released from custody.

20. Keeping in view of the facts and circumstances, the allegations raised by the prosecution and the orders passed by Delhi Medical Council, in my view, it would be appropriate if an inquiry is conducted by the Crime Branch of the Delhi Police by an officer of the rank of Deputy Commissioner of Police into the allegations raised by the prosecution that Dr. Gajinder Kumar Nayyar is issuing fake medical certificates to accused/convicts and/or family members of the accused/convicts for extraneous consideration and not for medical considerations to facilitate then in obtaining favourable orders of bail, interim bail and suspension of sentence.

21. The in charge Legal Cell, Delhi Police as also the Directorate of Prosecution, Delhi shall examine their records and ascertain as to in how many cases accused/convicts applied for bail, interim bail and suspension of sentences in the last two years based on medical certificates and/or Pathological Reports issued by Dr. Gajinder Kumar Nayyar.

22. Inquiry shall be conducted by the DCP Crime Branch, Delhi Police in respect of the above allegations and report be submitted to this Court.

23. It is clarified that in case any merit is found in the allegations raised by the Prosecution, the Crime Branch is at liberty to proceed in accordance with law, without awaiting for any orders from this court.

24. Copy of this order alongwith the Status Reports dated 07.06.2020, 22.06.2020 and 26.06.2020 alongwith their annexures particularly the orders of the Delhi Medical Council dated 19.03.2019 and 30.10.2019 be forwarded to:

(i) the Registrar General of this Court for forthwith circulating it to all the Judges of this Court;

(ii) all the District Judges of Delhi for forthwith circulating it to all the Judges of their respective Courts dealing with applications for grant of interim bail, regular bail and suspension of sentence by accused person or convicts.

(iii) Dr. Gajinder Kumar Nayyar.

25. List for consideration on 16.07.2020.

26. Fresh status report be filed before the next date.

27. Copy of the order be uploaded on the High Court website and be also forwarded to Learned Counsels through email.

SANJEEV SACHDEVA, J JUNE 29, 2020 'rs'