
(2026) 02 DEL CK 1606
In the Delhi High Court
Case No : Bail Application No. 228 Of 2026

Amit Gulia

APPELLANT

Vs

State Govt Of Nct Of Delhi

RESPONDENT

Date of Decision : 03-02-2026

Acts Referred:

Maharashtra Control of Organised Crime Act, 1999 — Section 3(1), 3(4)

Citation : (2026) 02 DEL CK 1606

Hon'ble Judges : Girish Kathpalia, J

Bench : Single Bench

Advocate : Jitendra Sethi, Hemant Gulati, Shobit Dimri, Amit Ahlawat

Final Decision : Allowed

Judgement

Girish Kathpalia, J

1. The accused/applicant seeks interim bail for a period of six weeks in case FIR No. 163/2019 of PS Special Cell for offence under Section 3(1) and 3(4) of MCOC Act.
2. Status report in terms with last order was not filed. It has been repeatedly observed in almost all cases that status reports are not filed by the State in time. However, keeping in mind the issue of liberty, that too, an interim liberty on medical grounds, I find no reason to adjourn the matter.
3. Learned APP for State has shown me the relevant documents and the same have been shared with the learned senior counsel for accused/applicant as well.
4. Broadly speaking, the accused/applicant seeks six weeks interim bail on the ground that his mother has to undergo knee replacement surgery.
5. Learned APP for State, assisted by IO/Inspector Sundeep Yadav, strongly opposes the interim bail application on three grounds. Firstly, it is contended on the basis of a certificate issued by MAX Hospital that the surgery for knee transplant is not an emergency but elective surgery, which can be performed

even later. Secondly, learned APP for State has referred to statement of mother of the accused/applicant detailing out the number of relatives available, who can take care of mother of the accused/applicant at the time of surgery. Thirdly, it is contended that the accused/applicant is involved in as many as 27 cases of serious nature including three pending trial murder cases out of which one case is of double murder.

6. On the other hand, learned senior counsel for accused/applicant has taken me through record, contending that none of the arguments advanced on behalf of State holds merit when it comes to consideration of interim bail. Learned senior counsel for accused/applicant has also referred to the interim bail granted to two of the co-accused persons, who also are involved in number of cases and who duly surrendered upon expiry of interim bail period. Further, learned senior counsel for accused/applicant submits that out of those 27 cases, three cases were for murder and in all those three cases, the accused/applicant got discharged, which clearly shows fabrication on the part of police in order to ensure that the accused/applicant remains behind the bars. It is also submitted by learned senior counsel that the accused/applicant is in jail for past five and half years, so now he deserves at least some relief in the circumstances of the present nature.

7. So far as the argument of State that surgery to be performed on mother of the accused/applicant is not an emergency surgery, this in itself does not mean that a person requiring knee transplant can afford to defer the surgery endlessly. It is such patient only who knows the extent of pain and consequential need for knee transplant surgery at the earliest, though of course, it is not an emergent surgery. Further, going by the submission of learned prosecutor, the trial in the present case is not likely to conclude in next at least three years. Mother of the accused/applicant cannot be expected to keep suffering in the wait for knee transplant for such a long time.

8. As regards the availability of relatives to take care of mother of the accused/applicant, the issue has to be examined from a different paradigm. Merely because mother has other relatives to take care does not mean that son be denied an opportunity to be by her side. The issue has to be examined from paradigm of the accused/applicant, who desires to be by the side of his mother during the period of her hospitalization, surgery and recuperation. The accused/applicant has already suffered incarceration for more than five years. The State is expected to handle with even hardened criminals, what to say of undertrials in custody with soft hands at times depending upon the circumstances. It is not a case of some distant relative on whose marriage or illness the accused/applicant seeks interim liberty. It is the case of mother of the accused/applicant, who has to undergo surgery.

9. Coming to the argument of involvement of the accused/applicant in as many as 27 cases, argument of the State is that he is a hardened criminal. On this aspect, one has to understand that the incarceration being undergone by the

accused/applicant is undertrial incarceration, which has certain purpose. And that purpose can certainly be not to punish him for an offence, guilt wherefor is yet to be proved in trial. Further as mentioned above, in three murder cases, the accused/applicant was discharged and the investigating officer expresses ignorance if the State challenged those orders of discharge. It is quite unfortunate that the State has come forward so enthusiastically to oppose liberty even in such circumstances, without complete information. I find substance in the suspicion raised by learned senior counsel for the accused/applicant as regards truthfulness of those 27 cases, though as a matter of cautious rider, I must also clarify that exact view on truthfulness will be possible only after completion of trial of those cases. For present purposes, pendency of those cases should not stand in the way to permit the accused/applicant to be by the side of his mother at the time of her illness.

10. It is informed by learned senior counsel for accused/applicant that mother of the accused/applicant is now scheduled to undergo surgery for knee transplant on 13.02.2026 for which she has to get herself admitted on 12.02.2026 in MAX Hospital, Dwarka.

11. The bail application is allowed and the accused/applicant is directed to be released on interim bail for a period from 11.02.2026 to 04.03.2026 subject to his furnishing a personal bond in the sum of Rs. 50,000/- with one surety in the like amount to the satisfaction of the concerned trial court, so that he may ensure appropriate medical treatment for his mother. The accused/applicant shall surrender before the trial court positively on 05.03.2026 at 10:30am.

12. The accused/applicant is directed not to contact any of the prosecution witnesses in any manner whatsoever, failing which the State may file appropriate application even prior to 04.03.2026.

13. Copy of this order be sent to the concerned Jail Superintendent for being conveyed to the accused/applicant.