

(2019) 05 DEL CK 0314

In the Delhi High Court

Case No : Bail Application No. 1213 Of 2019

Nittin Johari

APPELLANT

Vs

SFIO

RESPONDENT

Date of Decision : 17-05-2019

Acts Referred:

Companies Act, 2013 — Section 212, 212(6)

Citation : (2019) 05 DEL CK 0314

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Sudhir Nandrajog, Gautam Khazanchi, Pradyuman, Akhilesh Kumar, Maninder Acharya, Monika Arora, Anurag Ahluwalia, Harsh Ahuja, Sahil Sood, Kushal Kumar, Harshul Chaudhary, Vipul Acharya, Praveen Singh, Natasha Sakra

Final Decision : Disposed Off

Judgement

CrI.M(B) 872/2019

This application is disposed of as infructuous.

BAIL APPLN.1213/2019

Petitioner seeks interim bail on the basis of Medical Certificate of 13th May, 2019.

Learned senior counsel for petitioner submitted that mother of petitioner is a terminally ill patient and is admitted in ICU and petitioner seeks interim

bail to meet her and then to take a call as to whether she is to be put on ventilator or not.

Medical certificate of 13th May, 2019 stands verified by respondent-SFIO.

The opposition to this application by learned Additional Solicitor General appearing for respondent - The Serious Fraud Investigation Office (SFIO)

was on the ground that in the first instance, petitioner ought to have approached

the designated Court for the relief claimed in this petition and it is not a fit case for invoking the jurisdiction of this Court directly. Attention of this Court was drawn to sub-section 6 of Section 212 of the Companies Act, 2013 to point out that for grant of interim bail, a satisfaction is required to be recorded by the Court that there are reasonable grounds to believe that petitioner is not guilty of the offence alleged and that he is not likely to commit any offence while on bail. Learned Additional Solicitor General relied upon this Court's Coordinate Bench decision in Islamuddin @ Chottey Vs. State of Delhi 2000 Cri LJ 108 to submit that bar, as contained in Section 212 of the Companies Act, 2013 applies even to a case where interim bail is sought.

In rebuttal, learned senior counsel for petitioner submitted that Section 212 of the Companies Act, 2013 will not be attracted when application for interim bail on medical grounds is considered. Attention of this Court was drawn to order of 26th February, 2016 of a Division Bench of this Court in Crl. Ref. 1/2015, Athar Pervez Vs. State to submit that bar under Section 212 of the Companies Act, 2013 will not apply where interim bail is sought under compelling circumstances, like in the instant case.

Upon hearing and on perusal of FIR of this Case, Status Report filed, I find that the merits of this case are not required to be gone into while considering prayer for interim bail. In view of dictum of this Court's Division Bench decision in Athar Pervez (Supra), bar as contained in Section 212 of the Companies Act, 2013 will not apply while dealing with application for interim bail on urgent medical grounds. In view of Medical Certificate of 13th May, 2019 petitioner is permitted to meet his mother, so that a call can be taken as to whether mother of petitioner has to be put on ventilator or not.

In the facts and circumstances of this case, it is deemed appropriate that instead of granting interim bail, petitioner is permitted to go to hospital in custody to meet his mother at his expense for few hours either tomorrow i.e. 18th May, 2019 or on Monday i.e. 20th May, 2019 during early morning hours for maximum period of six hours, so that he is brought back in custody before the sunset.

The concerned Jail Superintendent be apprised of this order forthwith to ensure its compliance through special messenger/ mentioning.

With aforesaid directions, this application is disposed of while not commenting upon the merits of this case.

A copy of this order be given dasti under the signatures of Court Master to counsel representing both the sides.