

(2020) 07 RAJ CK 0157
In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Application No. 3681 Of 2020

Paras Ram Vishnoi

APPELLANT

Vs

Director,cbi, Lodhi Road, New Delhi

RESPONDENT

Date of Decision : 01-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 302

Citation : (2020) 07 RAJ CK 0157

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Hemant Nahata, Sanjay Bishnoi, Panney Singh

Final Decision : Dismissed

Judgement

1. The petitioner has preferred the present application under Section 439 of Cr.P.C. and has sought interim bail.
2. Before advertng to the contentions raised by the rival counsel, it may be noticed that the petitioner is facing trial in relation to a murder.
3. Learned counsel for the petitioner showed concern that the petitioner is in judicial custody for more than 7 years and the trial is taking abnormally long time.
4. For the purpose of grant of interim bail, learned counsel submitted that the petitioner's wife is severely anemic and his mother, who is 90 years of age, is suffering from depression and heart ailments. He contended that medical report of petitioner's wife shows that she is severely anemic and is in need of blood infusion.
5. Learned counsel submitted that the petitioner's mother, who is in twilight of her life, is suffering from heart ailment and depression and is in need of proper medical attendance and unless the petitioner is granted a month's interim bail,

proper treatment of his wife and mother would be impossible.

6. It was vehemently argued by Mr. Nahata that petitioner's previous conduct has been good and whenever he was granted interim bail by this Court, he has timely reported/surrendered, as directed by this Court.

7. Having made such submissions, learned counsel pointed out that due to the present scenario of spread of pandemic Covid-19, the trial, which is at fag end, has come to a screeching halt. He apprehended that though the next date in the trial Court is 12.8.2020, the trial does not seem to be concluding in near future.

8. Mr. Panney Singh, learned Special PP appearing for the CBI vehemently opposed grant of interim bail by contending that neither petitioner's mother nor his wife suffer from any serious disease for which petitioner's personal presence is required. It was also argued that the petitioner hails from a large and influential family, which is capable of taking care of petitioner's mother and wife.

9. It was informed that petitioner's nephew is a sitting MLA, who alongwith petitioner's son Vikram Singh (about 26 years of age), can very well take care of the small health issues, which the petitioner's mother and wife are confronted with.

10. Showing resentment about CBI's stand in opposing interim bail to the petitioner, Mr. Nahata argued that most of the objections, which have been raised by the respondents, have been repelled by this Court when interim bail was granted to the petitioner.

11. He submitted that the petitioner would abide by whatever condition(s) this Court deems appropriate to impose in the facts of the present case.

12. Heard.

13. It is to be noticed that present application for grant of interim bail has been filed by the petitioner on 26.3.2020; submissions were made on numerous occasions. With a view to ascertain the health condition of petitioner's wife and in a bid to ensure her proper treatment, following order was passed on 19.5.2020:

"Mr. Nahata, learned counsel for the petitioner inviting Court's attention towards blood report of petitioner's wife submits that her hemoglobin level has come down to 6.6 and ESR to 100, which is indicative of some severe infection and thus petitioner's personal presence is imperative for attending her.

In the facts and circumstances of the case, petitioner's wife be got examined at AIIMS, Jodhpur for the ailments, she has.

List this case on 22.5.2020.

The blood report and other reports, so also prescription/line of treatment of Smt. Kusum Bishnoi w/o Paras Ram Bishnoi be placed on record by the next date of hearing."

14. It was informed by learned counsel that the petitioner's wife was taken to AIIMS Jodhpur and thereafter to MDM Hospital, Jodhpur, where she was examined.

15. However, what has been placed on record by the petitioner is, a blood report and ECG report given by the AIIMS, Jodhpur and a prescription dated 3.6.2020 issued by the doctors of MDM Hospital, Jodhpur.

16. A perusal of the documents placed by the petitioner shows that the petitioner's wife has low hemoglobin level (6.6), for which, she has been reportedly advised transfusion of 2 units of blood.

17. Mr. Bishnoi informed that blood has been transfused.

18. No material or evidence has been placed on record pointing towards any serious ailment, from which, the petitioner's wife and mother are suffering.

19. The ageing issues, which petitioner's mother is suffering, can well be taken care of by petitioner's son and/or his other relatives.

20. The documents on record do not show any major concern much less life threatening disease, for which petitioner's presence for ensuring proper treatment can be said to be required.

21. Application for interim bail cannot be used as a substitute rather a subterfuge for regular bail, particularly when petitioner's six bail applications have been rejected.

22. In the factual backdrop noted above, this Court is not inclined to grant indulgence, as prayed by the petitioner, who is facing trial for offence under Section 302 of IPC.

23. The mere facts that the petitioner has reported after enjoying the interim bail, can, per-se, not be a reason to grant indulgence to the petitioner, particularly when, this Court does not find any overwhelming or compelling reason requiring petitioner's presence to take care of his mother and his wife.

24. As an upshot of discussion aforesaid, the application for interim bail is rejected.