

(2020) 09 AFT CK 0006

In the Armed Forces Tribunal

Case No : Original Application No. 1114 Of 2020, Miscellaneous Application 1266 Of 2020

Vijay Pal Singh Narula

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 21-09-2020

Acts Referred:

Citation : (2020) 09 AFT CK 0006

Hon'ble Judges : Rajendra Menon, J;B.B.P. Sinha, Member (A)

Bench : Division Bench

Advocate : Sudhir K. Makkar, Sitikanth Nayak, K.S. Bhati

Final Decision : Disposed Of

Judgement

1. This is an application (MA 1266/2020) filed by the applicant with the following prayers:

1. Enlarge the Appellant on bail in connection with the findings and sentence of the GCM which is subject matter of the accompanying application (Appeal).

Â 2. Pass such otherand further ordersas this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. The applicant was subjected to the General Court Martial (GCM) and has been found guilty of various offences not only under the Army Act but

also under the Prevention of Corruption Act. He has been awarded punishment of 'Cashiering' from service after 32 years and thereafter directed for

Rigorous Imprisonment initially for 5 years, which has been reduced by the Confirming Authority to 4 years. This application has been filed for grant

of bail pending finalisation of the confirmation proceedings and various other

statutory requirements, which are to be completed based on the orders passed and the proceedings held in the Court Martial.

3. We are informed that all the statutory processes have been completed and the applicant is now required to amend this application and challenge all

subsequent events and orders passed. However, during the hearing of the matter, it has come to our notice that the applicant is suffering from serious

ailments and the Discharge Summary filed along with the application as Annexure-A/ 12 at Page 260 shows the ailment diagnosis as :- RENAL

MASS (LT) StageT2NoMx, the treatment underwent and the final diagnosis is that the applicant is suffering from 'MALIGNANT NEOPLASM OF RENAL PELVIS'.

4. It has been emphasised by the learned senior counsel for the applicant that till now the petitioner was in military custody and only yesterday, he was

shifted to the Civil Jail in Chandigarh. Under such circumstances, it is argued that looking to the medical condition of the applicant, if he is not released

on bail, he would suffer serious consequences and, therefore, it is a fit case where, subject to verification and objection(s) that may be filed by the

respondents at least some interim bail should be granted to the applicant in the interest of justice.

5. Shri Bhati, learned senior counsel for the respondents, wants to seek instructions and raise objections with regard to the averments made. However,

we had issued notice to the respondents on 31.08.2020 but till date no objection has been filed. In the meanwhile, certain subsequent developments

with regard to compliance with the statutory provisions have been undertaken and, therefore, it would be advisable to dispose of this matter with an

order for grant of interim bail to the applicant and grant liberty to the applicant to file a properly constituted appeal challenging all the actions as he

may want to impugn as have been held since filing of this application and also seek regular bail in the appeal to be filed.

6. In view of the facts and circumstances as indicated hereinabove, we dispose of this application with the following directions :

(i) The applicant shall be released on temporary bail, for a period of one month from the date of his release, subject to his furnishing a bail-bond of

Rs.10,000/- (Rupees Ten Thousand only) with one surety for the like amount to the satisfaction of the Superintendent, Budail Jail, Chandigarh.

- (ii) That the applicant shall not commit any further offence;
- (iii) That the applicant shall surrender his passport, if any, to the Superintendent, Budail Jail, Chandigarh.
7. However, in case the applicant does not file the regular bail application along with the appeal to be filed, he will have the liberty to seek extension of the bail, which would be considered on merits in accordance with the position that may be brought on record at that point of time.
8. We may clarify that we are constrained to pass this order looking to the medical condition of the applicant and the situation that has been brought on record.
9. In view of the above, present OA (Appeal) along with bail application stands disposed of with liberty to the applicant to initiate fresh proceedings as indicated hereinabove.
10. The order be communicated to the Superintendent, Budail Jail, Chandigarh by way of Speed Post/Private Courier service and also via electronic media.
11. A copy of this order be given `Dasti'