

FIR No.36/2021
PS Gulabi Bagh
State v. Karnail Singh
U/s 21 NDPS Act
12.07.2021

Present: Sh. K.P. Singh, Ld Addl. PP for State with IO through videoconferencing.

Sh. Sachin Aggarwal, Counsel for accused through videoconferencing.

Hearing is conducted through video conferencing.

This is an application u/s 439 Cr.P.C. for grant of interim bail on behalf of accused-applicant Karnail Singh in case FIR No. 36/2021.

Arguments heard. For orders, put up at 4 pm.



(Neelofer Abida Perveen)
Special Judge-02, NDPS/
ASJ, (Central), THC / Delhi
12.07.2021

AT 4pm
ORDER

This is an application u/s 439 Cr.P.C. for grant of interim bail on behalf of accused-applicant Karnail Singh in case FIR No.36/21.

Ld. counsel for the accused-applicant has contended that accused-applicant has been falsely implicated in the present

case. That accused-applicant was picked up from his house by the police. That on 23.07.2017, accused-applicant met with an accident and had received several injuries and he received multiple fractures in his right leg, femur bone, knee and ankle was fractured and badly damaged. That during the operation for his femur bone/ hip joint, knee and ankle, plate and screw were inserted for the support and for joining of his bone, his right knee was also fractured, his ankle was damaged and orthopedic hardware was inserted to support his ankle and now the substance is visible from the outside and the applicant-accused is advised fresh surgery for removal of the same. Ld. Counsel for the accused-applicant further submitted that even as per the report of the Medical officer, the ankle implant is required to be removed, and that no steps have been taken till date for removal of the implant, though the accused-applicant is experiencing unbearable pain due to the same. The treatment provided to the accused-applicant for removal of the ankle implant is inadequate as the accused-applicant has been facing immense pain due to ankle implant. That interim bail is being sought so that accused-applicant may get proper treatment for his ailment from a private hospital.

Ld. APP submits that at present two cases are pending investigation and six other cases are pending trial against the accused-applicant. That though in 33 cases, he has been discharged and in 40 criminal cases he has been acquitted

however in 11 criminal cases he has been sentenced also. That 258 grams of heroin is recovered from the possession of the accused which falls in commercial category. That accused-applicant does not have clean antecedents and has involvement in several criminal cases and is a habitual offender.

Heard.

Interim bail is being sought for the purposes of removal of ankle implant from private facility. Medical health status report was called for more than once in the course of the pendency of present application. As per the medical health status report dated 03.05.2021 received from jail, the ankle implant is required to be removed, however it is also submitted in the report that the surgery is elective surgery and not a life threatening condition. As It had not been suggested that there is any difficulty in undertaking the surgery in custody particularly when the same is elective and not a life threatening emergency condition, the accused-applicant being in serious pain due to the protruding implant, as the pandemic situation had somewhat improved, the Jail Superintendent concerned was directed to initiate the process for scheduling the elective surgery for removal of the implant to ward of any possible future complications /adverse effects on the health of the accused-applicant in custody due to prolonged delay in undertaking the surgery, in case elective surgery has been resumed at the Medical facilities associated/collaborating with

Tihar Jail and in pursuance thereto fresh report has been received dated 05.07.2021, to the effect that on 30.06.2021 accused-applicant was taken to Safdarjung Hospital wherein doctors advised oral medication alongwith removal of implant but accused-applicant was not willing for the same and wanted to get further treatment from private hospital.

The accused-applicant is a habitual offender and case pertains to commercial quantity of contraband. The elective surgery for removal of the implant is very much capable of being performed from a premier medical institution in custody and the accused-applicant has been taken to the hospital for the same, however the accused-applicant has expressed his reluctance to undergo the same. It would have been a different situation if the surgery was life threatening or there was any difficulty in the surgery for removal of the implant being conducted in custody even with the past antecedents and case involving commercial quantity. Taking into consideration the antecedents and the nature of the accusations, as the surgery is capable of being under taken in custody, no ground is made out to grant interim bail to the accused-applicant in such facts and circumstances to enable him to avail of treatment for the same from private facility, and for such reasons the application in hand is dismissed.

Copy of order be forwarded to Ld.Counsel for accused-applicant through electronic mode.

A handwritten signature in blue ink, reading "Neelofer" with a horizontal line underneath.

(Neelofer Abida Perveen)
SpecialJudge-02, NDPS/
ASJ, (Central), THC / Delhi

12.07.2021