

CNR No.DLCT01-008568-2021
SC No.209/2021
FIR No.34/2021
PS Hauz Qazi
U/s 302/307/323/341/506/34 IPC & 27 Arms Act
State Vs. Mohan Kumar & Ors.

02/09/2021

File taken up today on the bail application u/s. 439 Cr.PC of accused Khajanchhi Babu for grant of interim bail for the period of 30 days.

(Proceeding of the matter has been conducted physically in terms of circular No. 569/RG/DHC/2021 dated 19/08/2021 of the Hon'ble High Court of Delhi and circular No. 1150/46951-47141/DJ/(HQ)/Covid Lockdown/Physical Courts Roster/2021 dated 20/08/2021 of Ld. District & Sessions Judge (HQ), Tis Hazari Courts, Delhi).

(Physical Hearing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State.
Sh. Priyanka Singh, Ld. Counsel for the accused Khajanchhi Babu.

One of the regular stenographers and Assistant Ahlmad are on leave today.

By way of present order, this Court shall dispose of interim bail application of the accused Khajanchhi Babu.

Arguments have already been heard on the aforesaid interim bail application of accused Khajanchhi Babu. Perused the material available on record.

During the course of arguments on the aforesaid interim bail application, it was submitted by counsel for the accused that accused Khajanchhi Babu is an old age person aged about 70 years and medical condition of the accused is serious and he is suffering from old age ailments i.e. high blood pressure, high sugar and back pain. It was further submitted that accused is facing medical difficulties in the jail and has been admitted in the jail hospital since his sugar level increased to 500. It was further submitted that medical condition of the accused is deteriorating day by day and there is no improvement in the medical condition of the accused and in view of the same, the accused wants to get his treatment from a private hospital. It was further submitted that the interim bail for the period

of 30 days be granted to the accused for the purpose of his treatment and accused shall abide by all terms and conditions, if the interim bail is granted to the accused and accused shall surrender after the interim bail period.

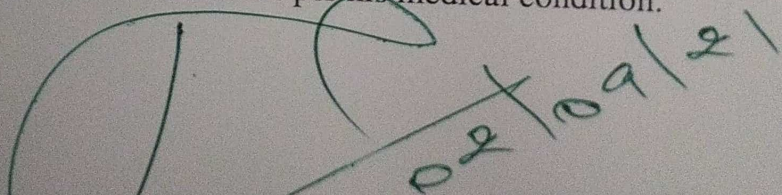
During the course of arguments on the aforesaid interim bail application, it was submitted by Addl. P.P. for the State that the allegations against the accused are serious in nature and he can abscond, if the interim bail is granted to him. It was further submitted that as per reports filed by the Jail Authorities, the accused has been provided requisite / proper treatment for his ailments and interim bail cannot be granted to the accused merely on the ground that the accused wants to get his treatment from private hospital. It was further submitted that interim bail has to be granted in exceptional circumstances and in the present interim bail application, the accused has not mentioned any exceptional circumstances and the present interim bail application of the accused be dismissed.

By way of the present interim bail application, the accused Khajanchhi Babu has prayed for interim bail for the period of 30 days for the purpose of his medical treatment. It is well settled law that interim bail has to be granted in a very exceptional and extraordinary circumstances warranting the immediate release of the accused to deal with any unforeseen contingency and interim bail cannot be granted in a mechanical manner. In the present case, report/reply of the present interim bail application was called from the concerned Jail Superintendent and Medical Officer In-charge, Tihar, New Delhi as well as from the SHO/IO and reports were filed. Latest report dated 29/08/2021 of Medical Officer In-charge regarding medical condition of the accused was filed wherein it is mentioned that *"as per the records available, the inmate patient is known case of Diabetes Mellitus Type-II with Hypertension with folliculitis and under treatment for the same. At present the inmate patient general condition has improved after injection insulin therapy, his vital are within normal limit and his blood sugar level has also come down (below 260 mg/dl). Patient was already admitted in CJ-8/9 Dispensary and was getting injection insulin according to his blood sugar level along with other Diabetic and Hypertensive Medicines for his illness and today patient has been transferred to Central Jail hospital for further*

management and better care. Further line of treatment is to control blood sugar level and get specialized consultation as per advice. He is already getting Diabetic Diet as per his medical condition. Further it is to add that no surgery is required/planned according to his current medical condition ”.

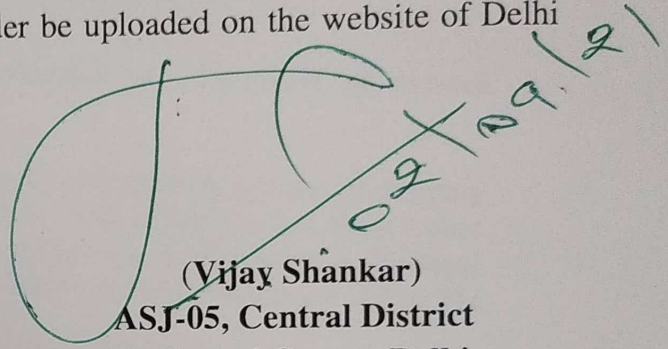
On perusal of the aforesaid report dated 29/08/2021 filed by the Jail Authorities, it is clear that general condition of the inmate has been improved and his vital are within normal limit and his blood sugar level has also come down. Requisite / proper medical treatment is stated to be given/ provided to the accused. At present, the accused is stated to be transferred to Central Jail hospital for further management and better care. During the course of the arguments, the counsel for the accused has not pointed out any deficiency in the treatment of the accused. There is nothing on the record to show that the Jail Dispensary and Central Jail hospital have not provided proper medical treatment to the accused. Merely, because the accused wants to get his medical treatment from private hospital, interim bail cannot be granted to him. In the present case, charge-sheet has been filed for the offences u/s 302/307/323/341/506/34 IPC & 27 Arms Act. Keeping in view the facts and circumstances of the case, gravity of offence, nature of serious allegations levelled against the accused and medical reports filed by the Jail Authorities, this Court is of the considered opinion that no ground for interim bail of accused Khajanchhi Babu is made out at this stage. Accordingly, the present interim bail application of accused Khajanchhi Babu is dismissed.

However, Jail Authorities are directed to provide the requisite/ necessary/ immediate medical treatment to the accused, as per his medical condition on priority basis. Jail Authorities are also directed to get the accused admitted in the Hospital inside the jail or outside the jail referral / Govt. hospitals on priority basis, if required, as per rules. In case, surgery of the accused is required/ planned, the Jail Authorities are directed to make necessary arrangements for the same on priority basis. Jail Authorities are also directed to provide appropriate/requisite diet to the accused as per his medical condition.

A handwritten signature in green ink is written over the date 02/09/21. The signature is a cursive scribble that is partially obscured by the date.

The concerned Jail Superintendent and Medical Officer In-charge are directed to file further/ appropriate/ detailed report regarding medical condition of the accused, on **15/09/2021**.

A copy of this order be sent to the concerned Jail Superintendent through e-mail for information and compliance. Counsel for the accused is at liberty to collect the copy of present order through electronic mode. Order be uploaded on the website of Delhi District Court.



(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
02/09/2021(A)