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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 02.05.2024
Pronounced on: 10.05.2024+ **BAIL APPLN. 1091/2024**

DAUD NASIR

..... Petitioner

Through: Mr. Ramesh Gupta, Senior
Advocate with Mr. M.S. Arya,
Mr. Shailendra Singh, Mr.
Harsh Choudhary and Mr.
Ishaan Jain, Advocates

versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Zoheb Hossain and Mr.
Manish Jain, Special counsel
for ED with Mr. Vivek
Gurnani, Mr. Kanishk Maurya,
Mr. Vivek Gaurav and Ms.
Abhipriya Rai, Advocates**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.****CRL.M.(BAIL) 619/2024 (interim bail)**

1. The present application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the petitioner, seeking grant of interim bail in case arising out of ECIR/35/DLZO/1/2022, registered for offences punishable under



Sections 3/4 of The Prevention of Money Laundering Act, 2002 ('PMLA').

2. Learned Senior Counsel appearing on behalf of the applicant states that the applicant has been in judicial custody since 11.11.2023 in relation to the present ECIR. It is argued that the wife of applicant had met with an accident and had fallen from the stairs, due to which she has suffered from slip disc, and has been advised surgery for decompression and fixation of slip disc. It is stated that there are no other family members to take care of his wife, during her impending surgery. It is also stated that the applicant and his wife also have responsibility of taking care of their one-year old child, which is not possible without the presence of the applicant since his wife has to undergo surgery. It is therefore prayed that the applicant be granted interim bail on this ground.

3. Notice was issued *vide* order dated 16.04.2024 and status report was called for.

4. Reply has been filed by the respondent/ Directorate of Enforcement. It is stated that the applicant has made deliberate and willful false averments with regard to there being no other family member to look after his wife, whereas, the fact is that the applicant lives in a joint family comprising of his parents and four brothers and some other family members. It is stated that the applicant himself has stated so in his statement under Section 50 of the PMLA given to the Directorate of Enforcement. It is also stated that in view of the rigors of Section 45 of the PMLA, the mandatory twin conditions will also have to be considered even before grant of interim bail to the



applicant. It is stated that the bail application of the applicant has been dismissed by the learned Special Court, Rouse Avenue, Delhi, on 22.02.2024, after considering the entire facts and circumstances of the case, and in case the applicant is granted interim bail, it would amount to diluting the twin conditions under Section 45 of the PMLA.

5. Learned Special Counsel appearing on behalf of the respondent further argues that the applicant, along with co-accused Jawed Imam Siddiqui and Zeeshan Haider, was arrested under Section 19 of PMLA on 11.11.2023 for active involvement in the offence of money laundering, after which all of them have been in judicial custody since 17.11.2023 as per orders of the learned Trial Court passed from time to time. It is stated that the ECIR in this case was recorded against one Mr. Amanatullah Khan and other accused persons on the basis of FIR No. 9 (A) dated 23.11.2016 registered by CBI, AC-III, New Delhi under Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 and Section 120-B of Indian Penal Code, 1860 on the basis of a written complaint dated 10.11.2016 received from the then SDM (HQ), Revenue Department, GNCTD. It is stated that in the said FIR, various allegations were levelled against Mr. Amantullah Khan, the then Chairman of Delhi Waqf Board and other accused persons. It was alleged that Mr. Amanatullah Khan, while working as Chairman of Delhi Waqf Board, had entered into a criminal conspiracy with other accused persons and had appointed various persons illegally in Delhi Waqf Board against non-sanctioned, non-existent vacancies and by



violating recruitment rules which had caused financial loss to the exchequer of Delhi Government and illegal gain to Mr. Amanatullah Khan and other accused persons. It was also alleged in the said FIR that the properties of Delhi Waqf Board were leased out arbitrarily in an unfair manner without following the laid down procedures. Subsequently, three more FIRs registered by the Delhi Police were clubbed in the instant ECIR for investigation.

6. It is further stated that the role of present accused/applicant of being involved in the money laundering activities has come into light from the transactions mentioned in the diaries so seized from the possession of Mr. Kausar Imam Siddiqui, who is a close associate of Mr. Amanatullah Khan. The scrutiny of the said seized diaries had revealed suspicious cash transactions running into crores of rupees in the name of the applicant including other co-accused and Mr. Amanatullah Khan. These transactions *prima facie* indicate that the applicant and co-accused were involved in laundering the proceeds of crime so acquired by Mr. Amanatullah Khan as a result of criminal activities relating to the scheduled offences under PMLA. It is further argued that the applicant is a key person in laundering of proceeds of crime and he had not cooperated during custodial interrogation. During custodial interrogation, the applicant was confronted with various material evidences and thus, he is having knowledge of the crucial evidences and witnesses. Therefore, there is every possibility that if the applicant is released on interim bail, he may tamper the evidences as well as may also try to influence the witnesses. Therefore, it is prayed that the present interim bail application be



dismissed.

7. However, learned Senior counsel for the applicant states that as per record, the surgery of the applicant's wife, which was scheduled for 23.04.2024, could not be conducted as no attendant was available. Therefore, it is argued by him that without going into the merits of the case, interim bail can be granted to the applicant on humanitarian grounds, on the basis of the medical treatment record of his wife.

8. This Court has heard arguments addressed on behalf of both the parties and has perused the material placed on record.

9. As per the status report filed on record, the applicant herein is living in a joint family, and the family members are living in the same building, in vicinity, where the applicant is residing. Learned Special counsel appearing on behalf of the respondent had also pointed out that the *paikar* in this case is the brother of the applicant, who has been pursuing his case, and that the other family members of the applicant are available to take care of the needs of the applicant's wife.

10. Having heard arguments and after going through the contents of the application, this Court is of the opinion that though it is not disputed that the applicant herein has other family members to take care of his wife, she may however need the emotional and financial support of her husband, i.e. the applicant herein, when she undergoes the surgery of spine. The applicant also has one-year old child, whose needs are to be looked after, when his wife undergoes surgery.

11. In these circumstances, without going into the merits of the case, but purely on humanitarian ground, this Court is of the opinion



that the applicant can be released on interim bail to attend to his wife and his child. This Court, however, notes that the date which was fixed for conducting surgery of the applicant's wife was 23.04.2024, however, the surgery could not be conducted on the said date as no attendant was available.

12. Considering the fact that the date of surgery has not yet been fixed and no fresh documents in this regard have been filed by the applicant, this Court directs that, subject to the applicant filing fresh documents regarding any date of surgery being fixed by the concerned Doctor, the applicant may move an appropriate application before the learned Trial Court and after due verification of those documents, the applicant shall be released on interim bail by the learned Trial Court for a period of *fifteen (15) days*, at least two days prior to the date of surgery of his wife, on the following conditions:

- i. The applicant shall furnish a personal bond in the sum of Rs.25,000/- with one surety of the like amount, to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned.
- ii. The applicant shall share his mobile number with the concerned Investigating Officer and shall ensure that the said mobile is kept switched on at all times, so that the applicant can be contacted if required.
- iii. The applicant shall not leave Delhi without prior permission of the learned Trial Court.
- iv. The applicant will not issue threats or influence witnesses in the present case.



- v. The applicant will surrender on the expiry of period of interim bail.
13. It is pertinent to mention that interfering with the investigation or evidence or attempting to influence any of the witnesses will be a ground for cancellation of interim bail.
14. It is also clarified that the applicant will not seek further extension of the interim bail, on the ground of post-operation recovery, as his wife may be looked after for the said purpose by his other family members.
15. Accordingly, the present application seeking interim bail stands disposed of.
16. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 10, 2024/at