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

+ BAIL APPLN. 430/2021

SHEKH RAHIM @ SANVAR @ ANVAR Petitioner

Through Mr. Birendra Kumar Pandey, Adv.

versus

THE STATE OF N.C.T. DELHI Respondent

Through Mr. Amit Chadha, APP for State with
Mr. Gaurav, Inspector, Crime
Narcotics.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **09.06.2021**

CRL.M.(BAIL) 729/2021 (interim bail)

1. This is an application under Section 439, Cr.PC filed by the petitioner seeking interim bail for a period of 45 days in FIR No. 280/2019 under Sections 302/34 IPC registered at P.S. Bhalswa Dairy on the ground that his case is covered by the High Powered Committee (HPC) guidelines.

2. Learned counsel for the petitioner submits that the petitioner is a young man of 27 years of age having clean antecedents and has never been involved previously in any case. He submits that the petitioner has already spent more than two years as an under-trial prisoner, having been in custody since 24.05.2019. He further submits that the charge sheet against the petitioner already stands filed and therefore, prays that he maybe granted interim suspension of sentence for a period of 45 days in accordance with the guidelines issued by the High Powered Committee of this Court.

3. Upon notice being issued, the Nominal Roll has been received from the Jail Authorities, from which it is evident that the petitioner has already spent 2 years and almost 15 days as an under-trial prisoner. It also emerges that the petitioner's conduct in jail has been good, and he has no previous involvement in any cases.

4. Learned APP appearing on behalf of the respondent opposes the application by urging that the petitioner is charged with a heinous offence *i.e.* under Section 302, IPC and if released on bail, there is every likelihood that he will tamper with the ongoing investigation against the other four co-accused, who are stated to be still absconding.

5. By placing reliance on the minutes of the HPC meeting dated 18.05.2020, he contends that merely because the case of the petitioner falls in the additional criteria "*xii*" of the guidelines issued by the HPC on 11.05.2021, he does not have an indivisible right to be released on interim bail. He, therefore, prays that the present application be dismissed.

6. Having given my thoughtful consideration to the submissions of the parties and perused the minutes of the HPC meetings dated 18.05.2020, 04.05.2021, and 11.05.2021; I find merit in Mr. Chadha's contention that even the case of an under-trial or a convict falls within the categories set out by the HPC, and he does not have any indivisible right to claim that he ought to be granted interim suspension/bail, as the case may be. Each case is required to be considered on its own merits by taking into consideration the guidelines laid down by the HPC.

7. Now coming to the facts of the present case, I find that the petitioner is a young man of 27 years of age, whose conduct in jail has been certified to be good and he is not alleged to be previously involved in any case.

8. In these circumstances, merely because that the other co-accused are absconding, cannot be a ground to deny the petitioner the benefit available under the recommendations made by the HPC. I also do not find any reason to believe the bald statement of the respondent that in case the petitioner is released on interim bail, he will tamper with the investigation.

9. The petition is, accordingly, allowed by granting interim bail to the petitioner for a period of 45 days, subject to his furnishing a personal bond in the sum of Rs. 25,000/- with a surety of the like amount to the satisfaction of the Jail Superintendent.

10. Upon being released on interim bail, the petitioner shall neither leave the NCR of Delhi nor contact any of the prosecution witnesses. The petitioner will provide his mobile number, and that of the surety to the concerned IO, which numbers will be kept operational at all times.

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11. List before the Roster Bench on 02.08.2021.

**REKHA PALLI
(VACATION JUDGE)**

JUNE 9, 2021

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