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

+ BAIL APPLN. 1343/2023

SAMEER MAHANDRU

..... Petitioner

Through: Mr. Vikas Pahwa, Sr. Adv. with Mr.  
Kirti Uppal, Sr. Adv. with Mr. Dhruv  
Gupta, Adv.

versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Zoheb Hossain, Special counsel  
for ED with Mr. Vivek Gurnani, Mr.  
Kartik Sabharwal and Mr. Manisha  
Dubey, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

**ORDER**

**24.07.2023**

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**CRL. M.A. 19171/2023**

1. The present petition has been moved seeking following prayers:

*“(a) Pass an order extending the interim bail of the petitioner, in ECIR No. ECIR/HIU-II/14/2022 dated 22.08.2022 registered by the ED authorities under Sec. 3/4 PMLA, 2002, in case titled "Directorate of Enforcement Vs. Sameer Mahandru & Ors. " bearing Complaint Case No. 31/2022, for a period of another 3 months; and/ or  
(b) pass any order/orders which this Hon'ble court may be pleased in the facts & circumstances of the case.”*

2. Mr. Kirti Uppal, learned senior counsel and Mr. Vikas Pahwa, learned senior counsel for the petitioner submits that the petitioner had spine surgery on 08.05.2023 .

3. Learned senior counsels submits that in view of the medical condition of the petitioner, the co-ordinate Bench of this Court in CRL MA No. 10859/2023 and Bail APPL. No. 1343/2023 vide a detailed order dated 12.06.2023, after taking into account all the contentions raised by the parties and medical condition of the accused of the petitioner granted interim bail for a period of six weeks subject to certain conditions enumerated in the order dated 12.06.2023. Learned senior counsel submits that as per this order, the petitioner is required to surrender before the learned Trial Court on 25.07.2023 at 5:00 PM.
4. Learned senior counsel submits that a SLP No.7438/2023 titled as ***Directorate of Enforcement v. Sameer Mahandru*** filed by the E.D. was also dismissed vide order dated 03.07.2023 by the Hon'ble Supreme Court.
5. Learned senior counsel submits that the condition of the petitioner is still not good and the operating doctor, has advised strict bed rest of two months. Learned senior counsel submits that therefore, interim bail for six weeks may further be extended. Learned senior counsel have also pointed out that the petitioner had a fall on 16.07.2023.
6. Sh. Zoheb Hossain, Learned Special Counsel for the ED has vehemently opposed this application seeking grant of extension of interim bail for another six weeks.
7. Learned special counsel for ED submits that this Court vide detailed order dated 27.04.2023, has specifically directed the petitioner to surrender before the Superintendent Jail and refused to grant further extension of the interim bail.
8. Learned special counsel for ED submits that even during the period of

interim bail, the petitioner himself had visited the ED office without any summons on 18.07.2023, 21.07.2023 and 22.07.2023 which itself shows that the petitioner is able to walk and move freely. Learned special counsel for ED submits that consistently the Courts have taken a view that the interim bail cannot be an evergreen process and shortcut method to defeat the rigours of Section 45 of PMLA.

9. Learned special counsel for ED has also invited the attention of the Court to the medical documents filed by the petitioner himself which shows that the condition of the petitioner is stable and can be treated with the medicine prescribed. Learned special counsel for ED has also invited the attention to the Court to the report dated 03.06.2023 of the medical Board of AIIMS which has also concluded that there is nothing to advise continuous bed rest to the patient. Learned special counsel for ED submitted that the petitioner has cooked up the story of falling down on 16.07.2023 and it is fake.
10. This Court is of firm view that right to live and right to live the life with the dignity is one of the important facet of the fundamental rights. An individual has a right to have effective and appropriate treatment as per the medical advice. The detention during the period of the trial, cannot be termed as a punitive measures. However, at the same time, medical grounds cannot frustrate rigours of the special laws like PMLA. In the special acts, the legislature in its wisdom has put certain restrain for the grant of the bail and therefore the interim bail never be allowed to be evergreen process.
11. It is pertinent to mention that the Coordinate Bench of this Court vide a detailed order dated 12.06.2023 has considered all the medical

documents as well as report of the AIIMS medical Board dated 03.06.2023 and granted interim bail for six weeks. The attention has been invited to the observations made by the co-ordinate Bench of this Court in para 41 which reads as under;

*“41. Though the medical report indicates that the condition of the petitioner is stable at the date of assessment and he is making progress, he is still eligible to be categorized under the term "sick" enumerated under proviso to Section 45(1) of PMLA due to the life-threatening nature of the diseases with likelihood of causing irreversible injury to the petitioner.”*

12.It is a matter of record that the SLP No.7438/2023 titled as ***Directorate of Enforcement v. Sameer Mahandru*** filed by the E.D. was disposed of by the Hon’ble Court and the following order was passed:

*“we are not inclined to interfere with the impugned judgment, as it grants interim bail, which will run itself out within a period of three weeks.*

*In view of the aforesaid position, the present special leave petition is dismissed. Question of law is left open.*

*Pending application(s), if any, shall stand disposed of.”*

13. The spinal injuries and surgeries are serious issues and the recovery from such take a long time. This court cannot substitute its view with the view of medical expert. The courts while dealing with such issues have to balance the rights of the accused and the prosecution. This court considers that while deciding such issues there has to be element of compassion. It is also relevant to mention that ED has not made any allegation regarding misuse of interim bail by the petitioner. The visit of petitioner to ED officer cannot be construed against him. I consider that in view of the detailed order passed by coordinate Bench

of this Court vide order dated 12.06.2023 and the medical record furnished by the petitioner, a further extension of six weeks i.e., 04.09.2023 is granted to the petitioner subject to the terms and conditions of order dated 12.06.2023. The petitioner shall surrender before the learned Trial Court on 04.09.2023 before 05.00 pm. However, the order passed by this Court in this case, shall not be treated as a precedent as it has been passed on the peculiar facts and circumstances of the case.

14. This Court considers it proper to record that no further extension of interim bail shall be granted on the ground as has been taken in the present application.

15. In view of the above directions, the present application stands disposed of.

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16. List the matter on 08.09.2023.

17. Order *dasti*.

**DINESH KUMAR SHARMA, J**

**JULY 24, 2023**

*Pallavi*