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

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***Reserved on: 07.11.2023
Pronounced on: 17.11.2023***+ **BAIL APPLN. 2727/2023**

AMIT ARORA

..... Petitioner

Through: Mr. Vikas Pahwa, Senior Advocate with Mr. Prabhav Ralli, Ms. Namisha Jain, Mr. Aditya Shukla and Mr. Kushal Gupta, Advocates

versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Zoheb Hossain, Special Counsel for ED with Mr. Vivek Gurnani, Advocate

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.****CRL.M.A. 29691/2023**

1. The present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (*Cr.P.C.*) for taking additional grounds for interim bail application, i.e. CRL.M.A. 1385/2023, in view of serious medical emergency of the petitioner's daughter Ms. 'X' (name redacted), who is suffering from Paranoid Schizophrenia and has shown serious suicidal tendencies in the past about 10 days.



2. At the outset, learned Senior Counsel for the petitioner stated that he is pressing only the present application with regard to the medical condition of the petitioner's daughter and is not arguing on the main interim bail application filed by petitioner on medical grounds.

3. The case of the petitioner is that his daughter, who is aged about 16 years, is suffering from serious mental health conditions which had first surfaced around December, 2022. As stated in the petition, on 27.12.2022, the petitioner's daughter was admitted at Paras Hospital, Gurugram, Haryana in emergency where she was diagnosed with Paracetamol Poisoning (suicide attempt), and a Gastric Lavage was immediately conducted to manage the Paracetamol poisoning and she was kept under strict medical supervision. It is stated that after the first attempt, she had tried to commit suicide again on two different occasions, and upon further examination, it had emerged that she was also suffering from Acute Stress reaction (ASR), which is a serious psychiatric disorder. It is further stated that regular consultations and follow up was done with doctors, who had advised that petitioner's daughter should be kept under strict vigilance as there was a risk of self-harm. Further, it was also observed by the doctors that the same is on account of the petitioner's incarceration, thus therapy sessions were advised. It is submitted that the daughter of the petitioner had tried to commit suicide again on 23.03.2023 after which she was rushed to Medharbour Hospital, Gurugram, Haryana where she was diagnosed with Staggered Paracetamol Ingestion and Paranoid Schizophrenia



F20. It is stated that in view of such mental condition of the petitioner's daughter, the petitioner was granted interim bail by the learned Trial Court.

4. Learned Senior Counsel for the petitioner argues that in the last about 10 days, the daughter of petitioner has again displayed suicidal tendencies and symptoms of depression and anxiety. It is submitted that the petitioner's wife was immediately constrained to consult the child's doctor on 26.10.2023 in V-Medica, Gurugram, Haryana where it was reiterated that the daughter of the petitioner is suffering from acute anxiety and headaches. It is further stated that the daughter of the petitioner was also examined by Dr. Anuj Mittal, Deen Dayal Upadhyay Hospital, New Delhi on 27.10.2023 where it was again observed that psychiatric symptoms were present, despite regular medication. It is argued by learned Senior Counsel for the petitioner that the petitioner deserves to be released on interim bail on humanitarian grounds in order to be physically present with her daughter. It is also argued that daughter of petitioner has to appear for SAT Exam (Scholastic Assessment Test) which is scheduled for 02.12.2023 and the petitioner's absence during the preparation for the exam, has further added to her depression and anxiety, thereby further increasing the risk of another suicide attempt. Therefore, it is argued that the present application be allowed.

5. On the other hand, learned Special Counsel for ED opposes the present application and states that as per the opinion of concerned doctor of DDU Hospital, the petitioner's daughter has been advised close vigilance by family members, preferably parents, and it is not



the case that the Doctor has advised care by parents only. It is also submitted that two cousins of the petitioner also reside near the house of the petitioner, who are also available to take care of the petitioner's daughter who is otherwise being taken care of by her mother, i.e. petitioner's wife. It is further stated that the petitioner herein has remain in jail only for a period of about 115 days and has remained outside the jail for about 227 days. It is argued that if the request for interim bail is entertained, it would amount to diluting the twin conditions under Section 45 of PMLA which is meant to apply uniformly to all accused persons under the Act with the only exception carved out by the proviso which admittedly the petitioner does not fall under. It is further submitted that the petitioner herein had destroyed/changed/used his mobile phones for 11 times in around 1 year which itself shows the conduct of the accused. Therefore, it is argued that present application be dismissed.

6. As regards the submission that the petitioner had destroyed/changed his mobile phones for 11 times, the learned Senior Counsel for petitioner submits that in view of the observations made by the Hon'ble Apex Court in recent decision of *Manish Sisodia v. CBI 2023 SCC OnLine SC 1393*, such contentions need not be looked into for the purpose of grant of bail.

7. This Court has heard arguments addressed by learned senior counsel for the petitioner and learned Special Counsel for ED and has perused the material on record including the medical documents of the petitioner's daughter as well as the reply filed by ED.

8. In the present case, this Court notes that the petitioner was



arrested in the present ECIR for the offence of money laundering on 29.11.2022 and prosecution complaint was filed by respondent on 06.01.2023 arraying the petitioner as an accused. The petitioner herein was summoned by the learned Trial Court *vide* order dated 02.02.2023. As per a table submitted by the respondent in its reply, the petitioner has remained in the remand of ED and judicial custody for a period of about 115 days, and has remained on interim bail for a period of about 72 days. Further, the petitioner has remained admitted in a private hospital in judicial custody for a period of 93 days and since 07.09.2023, he has been admitted in the RML Hospital, New Delhi where he remains under judicial custody.

9. In a nutshell, the main ground for filing the present application by the petitioner is that the daughter of the petitioner is suffering from Paranoid Schizophrenia and has shown serious suicidal tendencies in past few days.

10. At the outset, this Court notes that the petitioner herein has remained on interim bail for a period of 72 days i.e. from 31.01.2023 to 12.04.2023. The interim bail granted on 31.01.2023 was extended on several occasions by the learned Trial Court on similar grounds of medical condition of the petitioner's daughter. It was also recorded in order dated 28.03.2023 that the counsels for the accused therein had submitted before the learned Trial Court that the accused needs further period of around 10-15 days so that some specialist doctor in the field of psychiatry may be consulted for his daughter's treatment and it was also stated at Bar that accused shall not seek any further extension of interim bail on such grounds.



11. This Court has gone through the recent medical documents pertaining to the daughter of petitioner and notes that in medical prescription dated 26.10.2023 of V-Medica Clinic and Diagnostic, Gurugram, Haryana, the concerned doctors have diagnosed her with anxiety, sleep disturbance, etc. and have advised supportive sessions, strict vigilance and counselling by mother. Furthermore, this Court has also considered the report of DDU Hospital, New Delhi whereby the daughter of petitioner has been diagnosed with Paranoid Schizophrenia and with psychiatric symptoms. However, the doctors concerned have prescribed several medications to the daughter of petitioner and have advised mandatory supervision as well as close vigilance by family members, preferably by parents. The complete medical record, however, has not been reproduced in this order keeping in mind the valuable right of privacy of the child.

12. This Court has also gone through the contents of reply filed by respondent/ED wherein it has been informed that the petitioner's daughter has been advised vigilance by family members and it is not the case that such vigilance should be only done by both the parents. This Court has also been informed that the cousins of present petitioner also live in the vicinity of the residence of petitioner in Gurugram, and the fact that these cousins have themselves claimed to be very close to the family of petitioner in their statements recorded under Section 50 of PMLA, may be taken note of by this Court.

13. Having perused the entire set of medical documents placed on record, this Court is of the opinion that the petitioner's daughter is being treated regularly for her medical ailments and psychiatric



symptoms and the wife of the applicant is always available with her daughter alongwith other relatives of the applicant. Thus, in this Court's opinion, the daughter of the petitioner is being given the best possible treatment and support by her mother and other family members and the medical condition of the petitioner's daughter is being managed, controlled and treated in the absence of petitioner who himself was admitted in RML Hospital, New Delhi, in judicial custody.

14. This Court can understand the child's normal reaction to an abnormal situation where her father is absent due to his incarceration in jail. This Court, however, notes that the mother of the child and the other family members have largely supported the child and are constantly attending to her psychological needs, which is apparent from the record.

15. This Court has weighed the situation where the father while being in judicial custody himself was also hospitalized and the child is facing emotional and psychological trauma as discussed above. Children in such circumstances require time and space to understand such situations and need help to come to terms with unexpected events which have taken place in their lives and to adjust to such changes. The psychological injury that some children may suffer in many such cases need healing. The Courts should not fail in their duty to act as healers, as in the present case to help the daughter of the applicant who needs support of this Court, though not a party before it.

16. Therefore, this Court **directs** that the concerned Jail



Superintendent shall allow the petitioner to interact with his daughter through video-conferencing facilities, as per Prison Rules and Manual, for a period of half an hour twice a week, on the days of choice and convenience of petitioner's daughter, including in addition any special milestone day for the daughter or her birthday to meaningfully be able to support her.

17. This Court hopes that the arrangement made above will help the child recover faster through her interaction with her father, increasing feeling of belongingness and improving self-worth and self-confidence.

18. This Court wishes her complete psychological recovery as well as a life time of positive mental health.

19. The accused herein, however, is allegedly involved in a serious offence where investigation *qua* the entire conspiracy has still not concluded. Therefore, considering that the child has the support of her mother and other family members and is receiving required attention, medical and otherwise, *this Court is not inclined to grant interim bail to the accused.*

20. Accordingly, the present interim bail application stands dismissed, subject to aforesaid directions.

21. A copy of this judgment be forwarded to the concerned Jail Superintendent.

22. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J
NOVEMBER 17, 2023/kd