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

+ **BAIL APPLN. 2012/2021**

NADEEM

..... Petitioner

Through Mr. Aditya Agarwal, Advocate

versus

STATE

..... Respondent

Through Ms. Meenakshi Dahiya, APP with
Inspector Ratnesh Kumar Singh, PS
Usmanpur

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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15.07.2021

HEARD THROUGH VIDEO CONFERENCING

1. This petitioner under Section 439 Cr.P.C is for grant of interim bail to the petitioner in FIR No.237/2019, dated 01.04.2019, registered at Police Station New Usmanpur, for offences under Section 302 IPC and Sections 25/27/54/59 of the Arms Act, on the ground of HPC guidelines.
2. The learned counsel for the petitioner states that the petitioner was arrested on 04.04.2019. He states that a perusal of the nominal roll shows that apart from the instant FIR, the petitioner is accused only in one other case, being FIR No. 154/2017, registered at Police Station Seelampur for offences under Sections 308/323/341/34 IPC. The learned counsel for the petitioner states that other than these two cases there is no other case against the petitioner and therefore the petitioner is entitled to be released on interim bail under the HPC guidelines. He places reliance on para (xii) of the HPC guidelines dated 11.05.2021, which reads as under:

“(xii) Under Trial Prisoners (UTPs) facing trial for a case under Section 302 IPC for more than two years with involvement in any other case;”

The learned counsel for the petitioner also places reliance on the resolution passed by the High Powered Committee on 11.05.2021, which reads as under:

"If, the Under Trial Prisoner falling in one of the Eleven criteria laid down by this Committee in the Minutes of Meeting dated 4th May, 2021 and/or in any of the Two criteria laid down today hereinabove, has three or more criminal cases pending against him, then his case shall not be considered for grant of interim bail."

The learned counsel for the petitioner further states that the co-accused, Shahnawaz, who is similarly placed as the petitioner herein, has been granted the benefit of HPC guidelines by the learned Additional Sessions Judge and has been granted bail *vide* order dated 16.06.2021. He therefore prays that the petitioner be also released on bail.

3. Ms. Meenakshi Dahiya, learned APP opposes the interim bail by contending that the HPC guidelines are not binding on the Courts. She further states that there is one more case against the petitioner apart from the instant FIR. The learned APP contends that the possibility of the petitioner coming out of the Jail and committing similar offences cannot be ruled out. She therefore states that the benefit of HPC guidelines should not be extended to the petitioner.

4. The material on record shows that apart from the instant FIR, the petitioner is involved in one other case, being FIR No. 154/2017, registered at Police Station Seelampur for offences under Sections 308/323/341/34

IPC. Material on record also shows that the co-accused, Shahnawaz, whose role is similar to that of the petitioner herein and who is also involved in another offence under Section 307 IPC, has been granted bail on the ground of HPC guidelines by the learned Additional Sessions Judge *vide* order dated 16.06.2021. In view of this, this Court is inclined to grant interim bail to the petitioner, on the ground of HPC guidelines, for a period of 90 days from the date of his release on the following conditions:

- a) The petitioner shall furnish a personal bond in the sum of Rs.35,000/- with one surety of the like amount, who should be a relative of the petitioner, to the satisfaction of Jail Superintendent/Duty Magistrate.
- b) The petitioner shall not leave the NCT of Delhi without the prior permission of the Court.
- c) The petitioner shall report to the concerned Police Station on every alternate day.
- d) The petitioner is directed to give all his mobile numbers to the Investigating Officer and keep them operational at all times.
- e) The petitioner has provided his address in the Memo of Parties, he is directed to reside at the same address and if he changes the address, he shall intimate the same to the IO.
- f) The petitioner shall not, directly or indirectly, tamper with evidence or try to influence the witnesses.
- g) The petitioner is directed to surrender on the expiry of the interim bail before the concerned Jail Superintendent.

- h) Violation of any of these conditions will result in the cancellation of the bail given to the petitioner and will also have a bearing on the future bail applications of the petitioner.
5. The application is disposed of in the abovementioned terms.
6. Let a copy of the order be transmitted to the concerned Jail Superintendent.

SUBRAMONIUM PRASAD, J

JULY 15, 2021
Rahul