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

+ BAIL APPLN. 1478/2023

MANISH SISODIA

..... Petitioner

Through: Mr. Mohit Mathur, Sr. Adv. with Mr. Vivek Jain, Mr. Rishikesh Kumar, Mr. Karan Sharma, Mr. Mohd. Irshad, Mr. Rajat Jain, Mr. Mohit Siwach, Mr. Harsh Gautam and Ms. Sheenu Priay ,Advs.

versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Zoheb Hossain, Special counsel for ED and Mr. Vivek Gunani, Mr. Kartik Sabarwal, Mr. Hasnain Khwaja, Advs.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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05.06.2023

CRL.M.(BAIL) 820/2023 in BAIL APPLN. 1478/2023

1. Present application for interim bail for a period of six weeks has been moved by applicant Manish Sisodia in case Fir No.ECIR/HIU-II/14/2022 dated 22.08.2022 for the offence punishable under Sections 3 & 4 of the PMLA Act on the ground of illness of his wife Mrs.Seema Sisodia.
2. The petitioner has submitted that his wife is suffering from Multiple Sclerosis and also suffering from a severe renal and gastro disease,

which is neuro-degenerative disorder. The disease affects the central nervous system and leads to severe disability to see clearly, write, speak or walk. It has been submitted that due to the said disease, communication between the brain and other parts of the body becomes disrupted. The petitioner has submitted that his wife is suffering from the said disease for the last twenty years and consequently severe degeneration has set in. The petitioner has stated that due the said disease and degeneration Mrs.Seema Sisodia has been under continuous medical treatment and care. It has further been submitted that the petitioner is only caretaker/attendant for his wife and must remain present to take care of her.

3. The petitioner has submitted that his wife has suffered an acute attack of Multiple Sclerosis in the month of April, 2023 of which she was hospitalised for several days and on examination was diagnosed with Sessori-motor spastic paraparesis, because of which she is unable to stand or walk without support. It is also diagnosed that the applicant's wife has neurogenic bladder and bowel and is being treated with intravenous steroids and other supportive medication on the lines of an acute attack of Multiple Sclerosis. The petitioner states that earlier an application for interim medical bail bearing CrI.M.A.No.11980/2023 was moved which was withdrawn as her health has stabilised. It has been stated that the condition of the applicant's wife has suddenly again worsened and she has again suffered from an acute inability to move even few meters and had to drag her legs to move and has become unable to move without assistance. The petitioner's wife is also suffering from facel incontinence which is an inability to control bowel

movements. In these circumstances, on 29.05.2023, she was again taken to the hospital on examination and she was advised bed rest for three weeks. In the application the petitioner has given the complete history of the patient and the health care required for such patient.

4. The petitioner has filed the medical record along with the application. It has been submitted that the prescription imply that there has been a worsening of applicant's wife neurological condition and a previously identified demyelinating plaque in her cervical cord (the bundle of nerves that runs through the neck) has become active again, despite being treated with Tecfidera – a medication used to treat multiple sclerosis. It is stated that to address this, it is planned to switch the patient to a more potent disease-modifying treatment (DMT) called Ofatumumab.
5. The petitioner is praying for release on interim bail for six weeks on humanitarian and medical ground as his wife's health has further deteriorated and his presence and support to his wife during such acute attack of Multiple Sclerosis, hospitalization and recovery is vital and necessary. The petitioner has also sought for parity as the similarly placed accused in this case i.e. Mr.Amit Arora and Mr.P.Sarath Reddy have been granted bail by this court.
6. The petitioner has submitted that he has always cooperated in the investigation and there is not even a remote apprehension that the petitioner would attempt to flee the process of justice and is not a flight risk. It has been submitted that the petitioner has deep roots in the society and a respectable member of society being the former Minister, Deputy Chief Minister and sitting MLA. The petitioner has placed

reliance on orders dated 03.01.2023 passed by Hon'ble Supreme Court in *Pooja Singhal vs. Directorate of Enforcement*, SLP (Crl.) No.11971 of 2022 and *Satyender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SC 51 and judgment of the Karnataka High Court in *Kiran vs. State of Karnataka*, 2021 SCC OnLine Kar 85.

7. The Directorate of Enforcement/respondent has filed a written note in response to the application. In the written note, it has been submitted that earlier the petitioner/applicant chose to withdraw his interim bail application i.e. Crl.M.A.11980/2023 having identical grounds. The application was dismissed as withdrawn. It has submitted that the withdrawal of the bail application is to be treated as its dismissal and therefore a fresh application on identical ground ought not to be entertained. Reliance has been placed upon *State of Gujarat vs. Ashish B. Gandhi*, 1992 SCC OnLine Guj 152 Para 9 and *Rajubhai Pithabhai Vala vs. State of Gujarat* 2011 SCC Online Guj 2872. It has further been submitted that the rigours of mandatory twin conditions under Section 45 of PMLA requires to be kept in mind even while considering interim bail. Reliance has been placed upon *Athar Pervez vs. State*, 2016 SCCOnline Del 6662.
8. The Directorate of Enforcement/respondent has submitted that there are no changes in the circumstances when the earlier interim bail application was dismissed as withdrawn. The Directorate of Enforcement in the written note has further submitted that the petitioner has been alleged to have destroyed the evidence and he does not deserve to be admitted to bail as there is a high chance that he may tamper with the evidence and influence the vital witnesses and

suspects/individuals involved in the instant case.

9. Mr.Mohit Mathur, learned senior counsel appearing for the petitioner has submitted that the written note submitted by the Directorate of Enforcement is not at all relevant for purpose of granting interim bail. Learned senior counsel has submitted that the medical prescription filed by the petitioner has been found to be authenticated. Learned senior counsel submits that the plea of the Directorate of Enforcement that since the petitioner has been holding high positions and had been leading a busy public life, therefore, he could not have been a primary care taker of his wife is untenable. Mr.Mohit Mathur has submitted that wife of the petitioner is really in a bad shape and it would not be humanitarian to not grant interim bail to the petitioner to see and support his ailing wife. Learned senior counsel has submitted that even as per latest medical report filed along with the application, it is clear that the petitioner's wife has inability to walk without assistance for more than few meters. The medical report also says that there is facel incontinence and the patient is having sad mood. The prescription has advised bed rest for three weeks followed by physiotherapy.
10. Sh. Zoheb Hossain, learned special counsel for the E.D. has reiterated the averments made in the written note and has submitted that the ED is not disputing the illness of the wife of the petitioner but the position being held by the petitioner and the gravity of allegations against him does not entitle him to be released on bail. Mr.Hossain has also submitted that the wife of the petitioner is suffering from this disease for the last many years. It has further been submitted that even this court taking humanitarian approach had allowed the petitioner to go in

custody to his wife. Mr.Zoheb Hossain has submitted that even now there is an attempt to disrupt and tamper with the evidence by the present dispensation of which the petitioner is a prominent member. In support of this, Mr.Zoheb Hossain has referred to the FIR no.154/2023 dated 01.06.2023 registered under Section 380/464/465/120B IPC lodged by Y V V J Rajasekhar wherein it has been alleged that there are some sensitive files even relating to the excise case have been removed.

11. Mr.Mohit Mathur, learned senior counsel appearing for the petitioner in rebuttal has submitted that the ED by making such submissions is only trying to prejudice the mind. It has further been submitted that while the petitioner is in custody, the allegations in the FIR cannot be attributed to him.
12. Since Mrs.Seema Sisodia was taken to LNJP Hospital on 03.06.2023, a medical report was called. The medical report concludes as under:

“With IV fluids and supportive treatment her dehydration is improved and at present her general condition is stable but as per opinion of Neurologists she requires close monitoring of her symptoms caused by progressive multiple sclerosis.”
13. It is pertinent to mention that as per latest medical report on general physical examination, Mrs.Seema Sisodia was found conscious and fully oriented and afebrile her pulse was 94/min blood pressure is 124/78 mmofHg her oxygen saturation was 97%.
14. This court has always been of a very firm view that a patient, who is in need of the medical attention must be provided immediate, effective and adequate treatment. This court has also taken note of the serious

degenerative disease from which Mrs.Seema Sisodia, wife of the petitioner, is suffering from the last around two decades. This court would direct and expect that best of the medical treatment should be provided to Mrs.Seema Sisodia. Though, it is the choice of the patient and the members of her family that from where the treatment is to be taken, but this court as a guardian of the administration of justice would suggest that Mrs.Seema Sisodia may be examined by Board of Doctors to be constituted by the Medical Superintendent at All India Institute of Medical Sciences (AIIMS) which is a premier medical institute of this court. Mrs. Seema Sisodia or the members of her family attending to her may contact the office of the M.S., AIIMS for the medical examination and treatment.

15. The court while dealing with such applications always is in a dilemma. On one hand, there are pressing humanitarian issues and at the same time, there are serious issues which go to the core of the administration of justice. The allegations in the present case are extremely serious in nature. Though, this court does not allowing itself to get influenced or overawed by the gravity of the allegations, but at the same time, this court cannot forget the positions being held by the petitioner in the present dispensation and the nature of the case. The court while deciding the bail application in RC0032022A0053 dated 17.08.2022 at PS CBI, ACB, Delhi *inter alia* held that there is a possibility of tampering/influencing the witnesses, if the petitioner is released on bail. Taking into account the totality of facts and circumstances, this court, therefore, finds it very difficult to persuade itself to release the petitioner on interim bail for six weeks.

16. However, at the same time, this court feels that the petitioner should get an opportunity to see and meet his wife. Therefore, for one day, as per the convenience of Mrs.Seema Sisodia, the petitioner be taken to his residence/hospital (if she is admitted in the hospital) from 10 a.m. to 5 p.m. in custody. However, during this period, the petitioner shall not interact with media in any manner nor shall he meet anybody except his wife or members of his family. The Commissioner of Delhi Police is also directed to ensure that there should not be any media gathering near the vicinity of his residence or the hospital where he is taken. The petitioner shall also not use any phone or internet.
17. With the abovesaid directions, the application stands disposed of.
18. The copy of this order be also sent to M.S., AIIMS for constituting a Board for detailed medical examination and for further treatment of Mrs.Seema Sisodia and to send a report of the same to this court.
19. Copy of the order be also sent to the Commissioner of Delhi Police for necessary compliance.

DINESH KUMAR SHARMA, J

JUNE 5, 2023

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