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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of decision: 20th December, 2024*

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CRL.A. 53/2020 & CRL.M.(BAIL) 359/2022**KULDEEP SINGH SENGAR**

.....Appellant

Through: Mr. N. Hariharan, Senior Advocate with Mr. S.P.M Tripathi, Mr. Kanhaiya Singhal, Mr. Deepak Sharma, Ms. Aishwarya Sengar and Ms. Anisha Rastogi, Advocates (M-9211350090).

versus

CENTRAL BUREAU OF INVESTIGATIONRespondent

Through: Mr. Ravi Sharma, SPP for CBI. Mr. Mehmood Pracha, Mr. R.H.A Sikandar, Mr. Sanawar Chaudhry, Mr. Jatin Bhatt, Mr. Kshitij Singh and Ms. Nuzat Nazeem, Advocates for complainant (M-8860373732).

CORAM:**JUSTICE PRATHIBA M. SINGH****JUSTICE AMIT SHARMA****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.

CRL.M.(BAIL) 2161/2024

2. The present application has been filed by the Appellant under Section 389(1) of the CrPC read with Section 430(1) of the BNSS seeking interim suspension of sentence for a period of five months on medical grounds.

3. The Appellant has been convicted by the Trial Court for offences punishable under Sections 376/363/366 of India Penal Code, 1860 (hereinafter '*IPC*') read with Sections 5(c)/6 of Protection Of Children from Sexual Offences Act, 2012 (hereinafter '*POCSO Act*'). The Appellant *vide*



order on sentence dated 20th December, 2019, has been sentenced to life imprisonment for the remainder of life along with a fine of Rs. 25,00,000/- and an additional compensation of Rs. 10,00,000/- to be paid to the mother of the survivor.

4. *Vide* order dated 5th December, 2024, the Appellant was released on interim bail, in view of various medical issues that were reported. The Court had perused the medical status report dated 25th November, 2024 filed by the Office of Senior Medical Officer, Central Jail No. 3, Tihar Jail, New Delhi and had directed as under:-

“15. Considering the aforesaid position of law, the history of this case as also the medical condition of the Appellant and the totality of facts and circumstances of the present case, the present application is partly allowed and the Appellant/Applicant is directed to be released on interim bail, till the next date of hearing, on his furnishing a personal bond in the sum of Rs.50,000/- along with one surety of the like amount to the satisfaction of the concerned Jail Superintendent, subject to the further following conditions: -

- i) The Appellant/Applicant shall be admitted to AIIMS, New Delhi on the next day of his release for a comprehensive review of his medical condition and the Medical Superintendent, AIIMS, New Delhi shall enable his admission. The medical report which is extracted above shall be handed over to the Medical Superintendent, AIIMS, New Delhi and the Medical Board from various departments shall examine the Appellant and submit a report to this Court on the future course of treatment;*
- ii) The Board shall also opine as to whether all his treatments can be administered in AIIMS, New Delhi and if so, within what period.*



- iii) Initially, the Appellant shall be admitted in AIIMS, New Delhi for at least a period of 3 to 4 days so that the Medical Board can have a comprehensive evaluation;*
- iv) Upon the advice of the treating Doctors, if the Appellant is to be discharged from the hospital, he shall remain in an identified premises and shall not contact the survivor, her family or any other person including lawyers connected with this case in any manner whatsoever;*
- v) The Appellant shall remain in touch with the local CBI officer, who is going to be deputed by the CBI pursuant to this order and his number shall be provided to the survivor as also to the Appellant. The local CBI officer shall be in touch with the Medical Board of AIIMS so as to monitor the treatment of the Appellant on daily basis;*
- vi) The Appellant shall provide his residential address to the concerned CBI officer where he would be residing;*
- vii) The Appellant shall not leave Delhi or change his residence without prior permission of this Court;*
- viii) The Appellant shall provide his mobile number to the CBI official and intimate about any change;”*

5. As can be seen from the above order, the Appellant was directed to be examined by the Medical Board at AIIMS so that all the medical issues of the Appellant could be attended to and the exact status of his medical condition could be ascertained.

6. The report from the AIIMS dated 17th December, 2024 has been received. The same would reveal that clinical evaluation of the Appellant was conducted by the medical board constituted at AIIMS. The report records clearly that the medical issues faced by the Appellant have been examined



and proper treatment and advice has been given. The extract of the medical report is set out below:

“After reviewing the medical records, a thorough clinical evaluation was conducted, and relevant investigations were performed based on recommendations from various departments. Necessary procedures for the treatment of Retinal (eye) disease and Internal hemorrhoids were carried out. The final meeting of the Medical Board was convened on December 16, 2024, at 12:30 PM in the Board Room, Department of Hospital Administration, MS Office Wing, AIIMS New Delhi. All board members were present, with Dr. Aditya Baksi joining telephonically. During the meeting, the board deliberated on the patient's current clinical condition and the management plan.

The diagnosis and management regarding medical condition of appellant Mr. Kuldeep Singh Sengar made by the Medical Board is as below:

- 1. Diabetes Mellitus (5 years): Controlled on oral medications*
- 2. Systemic Hypertension (5. Years): Controlled on oral medications.*
- 3. Bronchial asthma Controlled on inhaler.*
- 4. Age-related Degenerative Spine Disease: Patient is advised, self-administered exercise and physiotherapy with oral medications.*
- 5. Bilateral cataract with simple myopia, bilateral retinal tears and lattices: (previously lasered as well as Laser therapy was done at AIIMS on 13-12-2024)(to follow with ophthalmologist at local facility after one month)*
- 6. Internal hemorrhoids and Bilateral Hydrocele. Banding was performed (at AIIMS, on 16-12-2024) and patient is advised conservative management.*
- 7. Anxiety - NOS (Not Otherwise Specified) Currently on oral medications.*



8. *Chronic generalized gingivitis. Patient is advised to maintain oral hygiene. The Medical Board has assessed that the patient is in a stable condition and ready for discharge after consolidating the treatment plans of all the concerned Departments. All necessary interventions have been carried out at AIIMS, New Delhi. The patient can now be managed on an outpatient basis at a local facility. A detailed clinical evaluation, Investigation reports, final diagnosis and discharge advice are provided in the attached Discharge Summary.”*
7. The above medical report has been signed by eleven doctors from various departments including Department of Medicine, Department of Endocrinology, Department of Orthopaedics, Department of Neurology, Department of Radiodiagnosis, RP Centre (Ophthalmology), Department of Surgery, etc.
8. In addition, a report dated 13th December, 2024 has also been submitted by the Member Secretary, Medical Board, AIIMS, New Delhi, raising concerns about the Appellant’s visitors in the hospital. The report of the Member Secretary of the Medical Board is as under:

“ Please refer to the court order dated 05.12.2024 of High Court of Delhi vide Crl. M.B No.1842/2024 in Crl. Appeal No. 53/2020 titled Kuldeep Singh Sengar Versus C.B.I. (copy enclosed), regarding subject noted above.

In this regard, it is to bring to your attention that appellant Mr. Kuldeep Singh Sengar has been admitted under Deptt. of Medicine, AIIMS, New Delhi in Room No. 405, fourth floor, New Private Ward III, AIIMS, New Delhi on 12th December 2024. The medical team evaluating and treating the patient has raised concerns regarding the large number of individuals visiting the patient. This high volume of visitors is compromising the



medical care and impacting the routine operations of hospital functioning.

Accordingly, you are requested to make necessary security arrangements for the appellant Mr. Kuldeep Singh Sengar during his stay in the hospital.”

9. The said communication was written to the Director, CBI by AIIMS.
10. Submission of Mr. Hariharan, Id. Senior Counsel for the Appellant is that the Appellant still needs some supervision and care. He highlights the fact that even on the previous occasion the laser therapy, which was conducted for the Appellant’s eyes, was rendered ineffective due to the immediate exposure of the patient. Reference is made to the following paragraphs in the report of the Senior Medical Officer, Tihar Jail dated 25th November, 2024.

“Accordingly, patient was reviewed at GNEC as well as AIIMS Hospital. In view of long waiting period at AIIMS, patient was reviewed at GNEC on 04.09.2024 wherein his both retina were examined and diagnosed as both eye high myopia with peripheral retinal degeneration. In view of requirement of urgent intervention, patient was planned for laser therapy on the immediate next day i.e. on 05.09.2024. His both eye laser therapies were done on 05.09.2024, 26.09.2024 as well as 28.10.2024. On his last visit to GNEC i.e. on 28.10.2024, patient was advised for cataract surgery and then continue laser therapy in view of persistent decreased vision.

Inmate/patient has also been reviewed by Jail Psychiatrist on multiple occasions with complaints of Anxiety with decreased sleep with headache. He was advised medications accordingly and patient is compliant to the therapy. He was last reviewed on 21.11.2024.

At present, inmate/patient still complains of severe low backache with numbness in both lower limbs with loss



of sensation left lower limb with difficulty in performing daily activities, decreased vision inspite of multiple therapies, on & off acute exacerbation of bronchial asthma (shortness of breath) with deranged blood sugar levels, pain and bleeding while defecation with anxiety and decreased sleep inspite of full compliance to treatment.”

11. In view of the above medical report, Mr. Hariharan, Id. Senior Counsel further submits that the Court may grant at least five months interim suspension considering the condition of the Appellant.

12. On the other hand, Mr. Mehmood Pracha, Id. Counsel has opposed the request and submits that the report of AIIMS dated 13th December, 2024 is itself clear that the Appellant does not maintain discipline while he is on bail and the same is seen from the number of visitors, visiting him in AIIMS. In addition, he submits that the survivor has already lost her father and the Appellant poses a threat to the survivor and her family. Since the Appellant's condition is stable, as per the AIIMS's report, he ought to be directed to surrender.

13. The Court has considered the matter.

14. The present case involves an extremely unfortunate incident which has a long and chequered history. The rape incident had taken place in Village Makhi, Unnao, Uttar Pradesh on 4th June, 2017. The trial of this case along with the other connected matters was shifted to Delhi *i.e.*, Court of Shri Dharmesh Sharma, District Judge, West, Tis Hazari Courts by a detailed order passed by the Hon'ble Supreme Court on 1st August, 2019 in ***Suo Moto Writ Petition (Criminal) No.1/2019*** along with ***Transfer Petition (Criminal) Nos. 242-245/2019***.



15. A perusal of the said order of the Hon'ble Supreme Court would show that there were apprehensions expressed as to the safety and security of the survivor as also her family members. The Central Reserve Police Force (CRPF) was directed to provide protection to the survivor and her family members including mother of the survivor, four siblings of the survivor, Mr Mahesh Singh (uncle of the survivor) and his family members, who live in Makhi Village, Unnao, as also her lawyer. An interim compensation of Rs. 25,00,000/- was also directed to be paid to the mother of the survivor by the State of Uttar Pradesh as an interim measure. Various other detailed directions were issued by the Hon'ble Supreme Court by the said order with respect to expeditious trial of the matter.

16. Presently, the survivor is located in Delhi and rest of the family is in Unnao, Uttar Pradesh. There are allegations that the survivor's father, two aunts and the lawyer had passed away under suspicious circumstances. In the case of the survivor's father, this Court has been informed that the Appellant has, in fact, been convicted.

17. On a pointed query from the Court regarding the number of visitors for the Appellant in AIIMS hospital, the official of the CBI, Mr. Ravi Sharma, who is present in Court, responded that on the first day when the Appellant was admitted to AIIMS, about 8 to 10 people had come to visit him. Thereafter, however, only 2 to 3 people visited the Appellant, and his daughter used to stay with him at the hospital.

18. The Court has noted that the medical report dated 17th December, 2024 clearly states that the bilateral cataract surgery of the Appellant was performed on 13th December, 2024, and a follow up needs to be taken after a month. In addition, the existence of internal hemorrhoids and Bilateral



Hydrocele has been managed by AIIMS. The treatment given, as set out in the report, is as under:

“The patient was admitted with the aforementioned complaints and underwent a comprehensive evaluation. For his low backache and bilateral lower limb pain, consultations with orthopedics and neurology were sought. An MRI of the LS spine with whole spine screening revealed age-related degenerative changes, and an NCS study was normal. He was advised to perform self-administered exercises and prescribed oral medications.

The ophthalmology department evaluated his bilateral vision loss and diagnosed him with nuclear sclerosis, cortical cataract, simple myopia, and lasered retinal tears and lattices in both eyes. He underwent laser therapy for the retinal tears.

For his complaints of intermittent bleeding during defecation and scrotal pain, a surgical consultation revealed internal hemorrhoids and bilateral hydrocele. He underwent hemorrhoid banding as part of the management.

Given his history of anxiety and decreased sleep, the psychiatry department diagnosed him with anxiety-NOS and prescribed oral medications. Additionally, for his jaw pain, the dental surgeon diagnosed chronic generalized gingivitis and advised improved oral hygiene practices. Endocrinology consultation addressed his deranged blood sugar levels, and medications were optimized. The department of medicine managed his uncontrolled hypertension and intermittent bronchial asthma by adjusting his medications.”

19. The suggested course of action and advice as given by AIIMS, for the Appellant to follow is set out below:

- *Sitz bath twice a day for 5 days*



- *Thermoseal RA tooth paste twice daily*
- *Mouthwash proflo plus 10ml twice daily*
- *Diabetic, DASH and high fiber diet*
- *Self-administered spinal flexion, extension exercises with C-spine isometric exercises*
- *Activity scheduling and sleep hygiene*
- *Ophthalmological evaluation/Retinal examination after 4 weeks*
- *Blood parameters, diabetes and hypertension management on out-patient basis at local facility*

20. A perusal of the above mentioned medical report dated 17th December, 2024, shows that the Appellant's laser therapy was conducted on 13th December, 2024 and he needs to follow up with an ophthalmologist at local facility after one month.

21. Mr. Mehmood Pracha, Id. Counsel appearing for the survivor has opposed the application and submits that even in the past, the medical reports which have been submitted, have not been fully accurate. In the case of the Appellant's brother - Jaideep Singh Senger in **CRL.A. 451/2020** titled as '**Jaideep Singh Senger @ Atul Singh v. CBI**', a learned Single Judge of this Court, after appointing a Medial Board had come to the conclusion that the suspension was not required, at that stage, as he was able to perform his day-to-day activities without any assistance. The order dated 18th January, 2023 passed by the Id. Single Judge is relied upon, the relevant portion of the same has been extracted below:

"In view of this report, it is clear that the appellant/applicant even though has a medical



condition but he is able to perform his day-to-day functions independently and as of now there seems to be no need for assistance at present in performing his day-to-day activities as the nature of movements are functional and non organic in nature.

For the aforesaid reasons, I am not inclined to grant further suspension of sentence to the appellant/applicant and the application is dismissed. The appellant/applicant shall surrender to the Jail Superintendent on or before 24.01.2023.”

22. Ld. SPP for the CBI has also opposed the prayer for interim bail on the ground that the Appellant’s release could pose a threat to the survivor and her family.

23. Considering the overall medical condition of the Appellant, this Court is of the opinion that the period for which the suspension is being sought is long. However in order to enable the Appellant to recover from his eye surgery, scrotal pain and the bleeding issues that he is facing while defecation, the extension of interim bail for a period of one month is directed. During this period, the Appellant shall adhere to the following conditions:

- i. The Appellant shall live at the residence in B-5/123 Safdarjung Enclave, Delhi, the details of which have been provided to the CBI;
- ii. The Appellant shall not move out of his residence except for visiting AIIMS for follow-up treatment;
- iii. The residence shall be guarded 24 hours a day by one constable of Delhi Police, who shall not permit more than two visitors at a time;
- iv. The Appellant shall not leave Delhi or change his residence without prior permission of this Court;



- v. A competent CBI officer, who shall be nominated by the Director -CBI, shall be in touch with the Appellant on a daily basis;
 - vi. The Appellant shall provide his mobile number to the CBI official and intimate about any change;
 - vii. If the Appellant wishes to hire a nurse/attendant, one person is permitted;
24. The Appellant shall undertake the follow up medical consultation between 10th January, 2025 and 15th January, 2025 at AIIMS, which shall be facilitated by the Medical Superintendent, AIIMS. He shall surrender on 20th, January, 2025 before the concerned Jail Superintendent. No further extension shall be granted.
25. Copy of the order be sent to the concerned Jail Superintendent as also to the Medical Superintendent of the AIIMS, New Delhi, through electronic mail as well, if available, for necessary information and compliance.
26. Copy of the order be sent to DCP Security, New Delhi for necessary information and compliance.
27. Accordingly, the application is disposed of in the above stated terms.
- CRL.A. 53/2020 & CRL.M.(BAIL) 359/2022**
28. List this matter on 27th January, 2025.
29. Order Dasti.

**PRATHIBA M. SINGH
JUDGE**

**AMIT SHARMA
JUDGE**

DECEMBER 20, 2024/sn/dk/pr/ks