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

Date of decision: 28th OCTOBER, 2025

IN THE MATTER OF:

\+ **CRL.M.C. 4848/2024**

NEERAJ AGARWAL .....Petitioner

Through: Mr. N. Hariharan, Senior Advocate with Mr. Prateek Bhalla, Ms. Punya Rekha Angara, Ms. Vasundhara N., Mr. Aman Akhtar, Ms. Sana Singh, Ms. Vasundhara Raj Tyagi, Mr. Arjan Singh Mandla, Ms. Gauri Ramachandran, Advocates

versus

STATE (NCT OF DELHI) & ANR. .....Respondents

Through: Mr. Nawal Kishore Jha, APP for the State with Mr. Madan Mohan Inspector

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

CRL. M.A. 20286/2025, CRL.M.C. 25972/2025 & CRL.M.A. 27317/2025

1. These applications have been filed on behalf of the Petitioner for bringing on record additional documents.

2. For the reasons stated in the application, the documents are taken on record.

3. The applications are disposed of.

CRL.M.A. 30013/2024

1. The instant application has been filed on behalf of the Petitioner/Applicant for modification of the bail Condition No.(c) and (d) of Paragraph 32 of the Judgment dated 28.08.2024 passed by this Court by which the Applicant herein was granted bail.

2. The Applicant had filed CRL.M.C. 4848/2024 for grant of bail in FIR No.210/2022 dated 25.10.2022 registered at Police Station Greater Kailash-1 for offences under Sections 304, 419, 420, 196, 197, 198, 201 and 201B IPC.

3. Shorn of unnecessary details, the facts of the case indicate that a complaint was received at Police Station Greater Kailash-1 from one Mrs. Nasibun Nisha, w/o Asgar Ali, R/o H 13/8, Ratia Marg, Sangam Vihar, New Delhi (*hereinafter referred to as 'the Complainant'*).

4. It is alleged in the complaint that the husband of the Complainant, namely, Asgar Ali S/o Sultan Ali, aged about 45 Years, was having acute pain in abdomen, for which they consulted one local doctor, Julifkar Ali, who gave an injection to her husband for immediate relief and referred them to Agarwal Medical Centre, E-234, Greater Kailash-1, New Delhi for further treatment.

5. The Complainant along with her cousin - Nikhat, and a friend of her husband - Sachin Sharma, went to Agarwal Medical Centre, Greater Kailash-1, New Delhi on 19.09.2022. On reaching the said medical centre at around 05:00- 5:30 PM, they met the owner of the medical centre who introduced himself as Dr. Neeraj Agarwal (i.e., the Petitioner/Applicant herein) and told them that he has a super specialist team of doctors including one Dr. Jaspreet, who is an expert in removing gallbladder stones and a fee of Rs.35,000/- was quoted for the said operation.

6. It is the case of the prosecution that the Complainant was asked that if

the surgery is done at their centre, the cost will be reduced to Rs.25,000/-. The Complainant was asked to deposit the surgery fee and a sum of Rs.15,000/- was deposited by the Complainant.

7. A request was made by the Complainant to the doctor that since her husband is a diabetic, the treatment be done after proper investigation. After completion of the formalities, one doctor who was wearing jeans and white coat came out of the Operation Theatre along with the Petitioner/Applicant herein.

8. Thereafter, the Complainant was informed that the surgery of the patient was to be conducted. It is the case of the prosecution that when the Complainant enquired about Dr. Jaspreet, they were told by the Applicant herein that Dr. Jaspreet could not come due to some reasons and that Dr. Mahender is a also a good and very old surgeon and had conducted several such stone removal surgeries.

9. It is stated that at around 06:45 PM, the patient was taken inside the Operation Theatre. It is stated in the complaint that when the patient was brought out of the Operation Theatre, he was suffering from severe pain and blood was oozing from his belly. It is stated that the Complainant requested the Applicant herein to see her husband as his condition was getting worse.

10. It is stated that the patient was again taken inside the Operation Theatre, where Dr. Pooja Aggarwal gave certain injections to the patient, i.e., the husband of the Complainant and the Applicant herein tried to give him artificial respiration.

11. The Complainant was told to take her husband to some other hospital and referral papers were prepared and an ambulance was called for upon whom the husband of the Complainant was taken to Safdarjung Hospital but he was declared as brought dead. On the said complaint, the instant FIR has

been registered.

12. The case of the prosecution is that Dr. Jaspreet Singh has not conducted the surgery but had only prepared the surgery note on the request of the Applicant herein. The case of the prosecution is that the surgeons who are not qualified for performing surgeries are conducting surgeries at the centre.

13. Since the chargesheet was not filed within 60 days from the date of arrest, the Applicant herein claimed that he should be released on bail under Section 167 of the CrPC. The said application was rejected and the matter travelled to this Court in CRL.M.C. 4848/2024. The question that arose for consideration before this Court was that whether the Applicant herein is entitled to default bail or not.

14. In the present case, offence under Section 304 IPC was converted to Section 304(I) IPC, and the chargesheet was filed after 60 days but within 90 days from the date of arrest. After hearing all the parties, this Court granted bail to the Applicant herein on the condition as stated in the earlier portion of the Judgment dated 28.08.2024.

15. This application has been filed by the Applicant/Petitioner for modifying the Condition No.(c) and (d) of Paragraph 32 of the Judgment dated 28.08.2024.

16. Mr. N. Hariharan, learned Senior Counsel for the Applicant/Petitioner states that Condition No. (d) violates the Applicant's fundamental right under Article 19(1)(g) of the Constitution of India inasmuch as it deprives him of his livelihood. He states that there is a presumption of innocence in favour of every accused, until proven guilty and this condition actually holds the Applicant guilty even before the trial is over. He states that the said condition is extremely onerous as the Applicant would be unable to live his

life with dignity.

17. Learned Senior Counsel for the Applicant states that conditions can be imposed on the Applicant to ensure that only qualified surgeons conduct the operations and the Applicant can be directed to install CCTV cameras in the Operation Theatres.

18. Regarding Condition No.(c) of Paragraph 32, learned Senior Counsel for the Applicant states that the Applicant has family in Delhi, Noida and Gurgaon which includes old and ailing senior citizens, whom the Applicant wants to visit and the condition restraining the Applicant not to leave the city of Delhi be modified. He also draws the attention of this Court to the deposition of the Complainant wherein she has retracted from her complaint to say that only Dr. Jaspreeet Singh had conducted the operation. He also states that the Investigating Officer who has made this false and fabricated story against the Applicant has been arrested for demanding bribe. He states that after the deposition of the Complainant, the Applicant would be honourably acquitted after the trial and therefore the conditions restraining the Applicant from leaving the city of Delhi and restricting the Applicant from indulging in the business of running a medical centre needs to be modified.

19. *Per contra*, learned APP for the State opposes the said application.

20. Heard learned Counsels for the parties and perused the material on record.

21. The Applicant was granted default bail on the ground that the chargesheet had not been filed within the time stipulated under law. Section 439 of the CrPC gives the power to the High Court to grant bail by imposing any condition which is considered necessary for the purposes mention in Section 437(3) of the CrPC. Section 437(3) of the CrPC reads as under:-

> *"**437.(3)** When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code (45 of 1860) or abatement of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1), the Court shall impose the conditions,-*
>
> *(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,*
>
> *(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and*
>
> *(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence,*
>
> *and may also impose, in the interests of justice, such other conditions as it considers necessary."*

22. Undoubtedly the condition of granting bail is only for ensuring proper and fair investigation which cannot be impeded or hampered by the fact that the accused is at large. Conditions can be imposed for securing the attendance of the accused as and when required either by the Investigating Officer or by the Court and to secure a fair trial by the witnesses who may be examined during the trial free and un-interfered with by the accused. Any condition which has no reference in the fairness or propriety of the investigation or trial cannot be countenanced as permissible under law.

23. It is also well settled that an essential requirement of imposing any condition is that the Court must be extremely wary and see that they

maintain a balance between personal liberty and the right of the Police to investigate the case.

24. Be that as it may, the Courts can impose conditions to ensure that the person who has been accused of an offence does not commit an offence similar to the offence which he is accused of or is suspect or commission of which he is suspect. In the present case, the allegation against the Applicant, who was running a medical centre, is that persons who were not qualified were conducting surgeries. Only keeping that allegation in mind, the condition restricting the Applicant herein from running a medical centre was imposed by this Court. The Applicant, who is a doctor by profession, is not precluded from being associated with any medical centre for earning his livelihood. He can conduct his medical activities in a centre other than the centre which he is running or operating, as the allegation against him is that while running a medical centre, person(s) who were not qualified to perform surgeries performed such surgeries.

25. The argument that the Complainant has in her testimony has stated that it was only Dr. Jaspreet Singh who conducted the operation and the entire case of the prosecution has fallen flat is not relevant at this juncture as the said statement would be tested in trial. The fact that the Complainant has become hostile and the effect thereof will be seen in the trial. This Court also cannot shut its eyes to the allegations made in the present case. Condition No.(d), as stated above, does not take away the bread and butter of the Applicant, who is a doctor, who can carry out his profession as a doctor by being associated with any other medical centre of his choice where he can work. The fact that he is precluded from running the centre till the conclusion of the trial does not take away his livelihood.

26. In this light, the Condition No.(d) of Paragraph 32 imposed on the

Applicant directing him not to run his own medical centre, in the opinion of this Court, is not onerous. The condition which is imposed is because in a medical centre which is run by him, the possibility of similar offence being committed is not ruled out, which is one of the precursors laid down under Section 437(3) of the CrPC.

27. This Court is also of the view that Article 19(1)(g) of the Constitution of India is not violated by the Condition No.(d) of Paragraph 32, because the Applicant can continue to practice his profession as a doctor, as running a medical centre is not the only way in which the Applicant can practise his profession.

28. As far as Condition No.(c) of Paragraph 32 is concerned, since investigation is complete and the trial has commenced, the said condition is waived and modified to the extent that the Applicant is directed to surrender his Passport, if not already deposited, before the concerned Trial Court so that he does not leave the country. If the Applicant wants to leave the country, he can do so with the permission of the concerned Trial Court.

29. With these observations, the application is partly allowed.

SUBRAMONIUM PRASAD, J

OCTOBER 28, 2025
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