

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU
(Through Virtual Mode)

Reserved on : 08.05.2020
Pronounced on: 14.05.2020

EMG-Bail App No. 07/2020
EMG-CrIM No. 09/2020

Mohd. Ashraf Bhat ...Applicant/Petitioner

Through :- Mr. Vivek Sharma, Advocate.

v/s

UT of Jammu and Kashmir and anr. ...Non-applicant(s)/Respondent(s)

Through :- Mr. Aseem Sawhney, AAG.

Coram: HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE

ORDER

1. The applicant-accused Mohd. Ashraf Bhat through present application seeks bail on medical grounds. It is submitted in the application that the applicant is suffering from various ailments and requires treatment which cannot be available in the District Jail, Amphalla, where he is presently lodged.
2. The application also refers to COVID-19 pandemic as it is stated that due to the pandemic there is every possibility of the applicant catching infection during stay in the Jail. The applicant requires proper medical treatment in some specialized hospital and thus the prayer for bail.
3. The learned Additional Advocate General has filed the status report in the application. The medical report dated 05.05.2020 of the applicant has also been separately filed as per the directions of the Court.
4. The applicant along with co-accused is facing trial for commission of offence under Sections 8/21/29 NDPS Act in FIR No. 157/19

registered with Police Station, Bahu Fort, Jammu. Heroin has been allegedly recovered from the accused persons and the applicant-accused is stated to be kingpin of illegal drug trafficking. The learned counsel for the applicant has submitted that as the applicant is still under treatment in the hospital as per report it means that the final report of the applicant is still awaited and, in any case, the report shows that the condition of the applicant is of concern and that is why he has been admitted in the jail hospital and requires special treatment in the hospital outside the Jail premises. The outbreak of COVID-19 endangers the life of the applicant is also argued on behalf of the applicant.

5. The learned Additional Advocate General has submitted that the medical report does not in any manner indicate that the applicant is affected by any life threatening disease. The report does not mention that the applicant requires admission in the hospital for any specialized treatment. He has submitted that in case the applicant requires hospitalization, the same will be provided to him.
6. As mentioned above, the bail has been sought by the applicant mainly on medical ground. The medical report of the applicant reveals that the applicant is undergoing treatment in Jail hospital itself and is receiving the treatment mainly for diabetes. The medical reports which are on file do not make out that the ailment of the applicant can be the basis for granting bail. No life threatening ailment is discernable from the medical record. If the applicant at any stage requires any special medical care during the course of trial, the same cannot be denied to him and may include hospitalization if required.

7. The other plea raised by the learned counsel for the applicant that the applicant deserves bail on the ground of COVID-19 pandemic is also without any substance as it is not made out that the Jail premises where the accused is presently lodged has presence of COVID-19 or is otherwise unsafe for the persons lodged there. The Jail Authorities must be taking all the precautions to ward off the presence of COVID-19. The directions passed by the Supreme Court in the light of pandemic are meant to decongest the jails and not that an under-trial who is facing serious charges and having even normal ailment is required to be granted bail. Each case is required to be assessed on its own merits. The judgments have been cited by both the sides in support of respective contentions. However, the same are not required to be referred to for the simple reason that the ailment of the applicant is not of such a nature which requires grant of bail to the applicant.
8. The application is dismissed being without merit. However, the applicant is always at liberty to file fresh application before the trial court in case he feels necessity for the same in future on medical grounds.

(PUNEET GUPTA)
JUDGE

Jammu
14.05.2020
Pawan Chopra

Whether the order is speaking? Yes/No
Whether the order is reportable? Yes/No