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

% ***Date of Decision: 18.11.2026***

\# **CNR No. DLHC010497002026**

\+ **BAIL APPLN. 4372/2026**

VIKAS GAHLOT .....Petitioner

Through: Mr. Tanzeem Husain and Mr. Mohit Chadha and Mr. Mohib, Advs.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Akhand Pratap Singh, SPP along with Mr. Hritwik Maurya, Advs. and SI Mahender, for State.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

1. By way of the second bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "*BNSS*") read with Section 528 of the BNSS (corresponding to Section 439 of the Code of Criminal Procedure, 1973 (hereinafter "*CrPC*") read with Section 482 of the CrPC), the applicant/petitioner seeks interim bail for a period of one month on the ground of the illness of his father.

2. The applicant/petitioner is in custody since 17.04.2025 (date of arrest) in the case arising out of FIR No. 165/2024, dated 28.08.2024, registered at P.S. Crime Branch, Delhi, under Sections 3/4 of the Maharashtra Control of Organised Crime Act, 1999 (hereinafter "*MCOCA*"). The chargesheet filed also invokes Section 25 of the Arms Act, 1959 and Sections 209/238/62 of the Bharatiya Nyaya Sanhita, 2023.

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3. The present application came up for hearing on 04.11.2026, when the following order was passed:

> *"1. The present application filed under Section 483 read with section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been filed by the applicant seeking interim bail on the ground of illness of his father. He is an under trial in FIR No.0165/2024 under Sections 3/4 of the Maharashtra Control of Organised Crime Act, 1990, registered at Police Station Crime Branch (Delhi).*
> *2.* ***The applicant states that his father has been advised surgery at HOK Super Speciality Hospital, Paschim Vihar, New Delhi. It was initially averred that the surgery of the applicant's father is scheduled on 13.10.2026. However, today, it is informed that the surgery has been rescheduled to 06.11.2026.***
> *3.* ***Let the Investigating Officer forthwith verify from the treating hospital and the Doctor whether the father of the applicant is scheduled to beoperated and as to his medical condition and the post operative care that will be required.***
> *4.* ***Let a status report to this effect be filed before the next date of hearing.***
> *5.* ***Learned counsel for the applicant submits that the surgery shall be suitably re-scheduled to await the outcome of the status report.***
> *6. List for consideration on 18.11.2026."*

(emphasis supplied)

4. Today, learned counsel for the applicant/petitioner submits that the surgery of the applicant's/petitioner's father has now been scheduled definitivelyfor 20.11.2026. Learned SPP, as aforesaid, confirms the same on behalf of the State.

5. However, the State opposes the present application on the ground that the applicant/petitionerhas been charge-sheeted as a member of the organised crime syndicate on 14.07.2025. Furthermore, four (4) other cases are pending against him. The same is duly disclosed in the compliance affidavit, filed by the applicant/petitioner; column (D) of the same reads as follows:

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FIR No. & Police Station	1. FIR No. 66/2018 PS Swaroop Nagar, Delhi 2. FIR 714/2022 PS Dwarka North, Delhi 3. FIR No. 247/2024 PS Special Cell, Delhi 4. FIR No. 716/2022 PS Bindapur, Delhi
Sections	1. U/S. 392/411/34 IPC 2. U/S. 307/34 IPC R/W Sec. 25/27/54/59 Arms Act 3. U/S. 25 Arms Act 4. U/S. 25 Arms Act
Status (Pending/ Acquitted/ Convicted)	Trial is going on in the said four cases

6. I have heard the respective counsel for the parties, perused the record, and given my consideration to the matter.

7. It is an admitted position that the surgery of the applicant's father is fixed for a specific date, *viz.* 20.11.2026. In this regard, it is noticed that there has been a history of the surgery date being shifted repeatedly. To this effect, para 3 of the aforesaid order dated 04.11.2026 (reproduced hereinabove) can be referenced. Further, the following details encapsulated in the latest status report cannot be lost sight of:

> "*10. That the medical documents dated 04.10.2026, pertaining to the applicant/accused's father, issued by Dr. Pawan Mehta had been*

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verified. Further, the doctor has stated in the verification report that the patient did not report to the hospital on the scheduled date. Accordingly, the proposed admission and surgery did not take place at the said hospital on 13.10.2026.

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12. … Furthermore, it has also been verified that the father of the Applicant/Accused has neither reported to the hospital for any fresh consultation nor approached the hospital for obtaining a fresh date for the proposed surgery till 12.11.2026."

8. This Court is also mindful of the apprehension expressed on behalf of the State that the applicant is in custody in a case pertaining to MCOCA, and there are serious allegations against the applicant/petitioner, so much so that the applicant/petitioner, as per the latest status report, has admitted in his confessional statement under Section 18 of the MCOCA that he was one of the Shooters, Recruiters, and Facilitators of the Organised Crime Syndicate, headed by Kapil Sangwan @ Nandu, who was declared a Proclaimed Offender (PO) and is still not arrested.

9. Upon taking note of the above considerations and concerns, particularly on account of :- (i) serious and grave allegations, (ii) multiple antecedents, and (iii) history of change of the surgery date, this Court is of the opinion that the applicant's/petitioner's should not be released on interim bail. However, this Court also cannot turn a blind eye to the applicant's/petitioner's medical condition, and to address this limited situation, custody parole may be granted to the applicant/petitioner. Rule 1209 of the Delhi Prison Rules, 2018 empowers the Court to grant custody parole to undertrial prisoners. The said Rule reads as under:

"*1209.* ***Under-trial prisoners are not eligible for regular parole and furlough, however, may be released on custody Parole, that too by the order of the concerned trial court.*** *It is clarified that where an appeal of a convict against conviction is pending before the High*

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17:48:52

Court, regular parole will not be granted since the convict can seek appropriate orders from the High Court."

(emphasis supplied)

10. Furthermore, the below extracted Rule 1203 of the Delhi Prison Rules, 2018, delineates the conditions under which the undertrial can be released on custody parole by the Court:

> "*1203.* ***"Custody Parole" may be granted*** *to the convict by an order in writing, issued by the Superintendent Prison and* ***to the under trial prisoners by the trial court concerned, for a period of not more than six hours****, excluding the time taken to reach the destination and return to Prison, in the following eventualities:*
> *(i) Death of a family member;*
> *(ii) Marriage of a family member;*
> ***(iii) Serious illness of a family member or***
> *(iv) Any other emergency circumstances with the approval of DIG (Range) of prisons.*
> *Note: The prisoners who have been convicted by the trial court may avail custody parole from prison authorities though their appeals are pending before the higher courts.*"

11. This Court in ***Shahid Nasir v. NAI*****, (2025) 3 HCC (Del) 681**, explained the purpose behind custody parole in the following terms:

> "*9. The Court has considered the submissions of both sides and perused the record. It is a well-settled principle of law that a prisoner, whether convicted or under-trial, continues to enjoy the protection of the fundamental rights guaranteed by the Constitution, save to the extent curtailed by the fact of lawful detention. Article 21 of the Constitution guarantees the right to life and personal liberty, which encompasses within its ambit the right to live with human dignity and to observe one's religious duties and personal obligations.*
>
> ***
>
> *11.* ***The purpose of custody parole is to allow a prisoner to attend to pressing humanitarian or personal obligations such as funerals, last rites, or significant family functions, under strict supervision of the authorities. It is a temporary measure, humane in character, that ensures a balance between the interests of justice and human***

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dignity."

(emphasis supplied)

12. This Court, in ***A.S. Ismail v. National Investigation Agency,*** **2024 SCC OnLine Del 7270**, albeit under a different statute, upheld the rejection of the interim bail and the grant of custody parole in lieu thereof, after considering the allegations and evidence on record. Moreover, the Court granted the custody parole for 8 hours a day for nine (9) days. Therefore, the restriction of six (6) hours prescribed in the above-reproduced Rule 1203 is not absolute. Rather, the guiding light for the period of custody parole is that the custody parole cannot be a substitute for grant of bail. To this effect, a reference may be made to ***Court on its own Motion v. State,*** **2019 SCC OnLine Del 12169**, wherein this Court observed as under:

> "*11. Further, in Election Commission of India v. Mukhtar Ansari, reported in 2017 SCC OnLine Del 7199, it has been held that* ***custody parole cannot be a substitute for grant of bail and cannot be extended for long periods or for daily visits.*** *Germane portion of the judgment is extracted below:*
>
> > *"32. After a person is arrested and produced before the Court, thereafter he is in the custody of Court i.e. 'custodia legis'. Even the Superintendent, Jail or the police officer taking to and for the prisoner to the Court holds the custody of the prisoner on behalf of the Court. By the impugned order no bail has been granted to Respondent 1 and Respondent 1 was directed to be in the custody of the Court to be held by the officers of State as directed. The custody of the prisoner away from the prison or the Court to any other place cannot be shifted except for a short period and only to meet emergent situations like death in the family, or to go to hospital or marriage of a child or sibling, etc.* ***The same cannot extend for long periods and for daily visits and cannot be substitute of a grant of bail. By passing the impugned order, the learned Additional Sessions Judge without granting temporary bail has passed an order as effective***

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***as that.*"**"

(emphasis supplied)

13. Considering the circumstances, the purpose of the application *viz.* the applicant's/petitioner's presence with his father during the surgery or hospitalisation, is best served by permitting him to visit the hospital in custody rather than by releasing him on interim bail. Accordingly, the applicant is granted custody parole:-

a. on 19.11.2026,*i.e.*, oneday before the surgery of the applicant's father;

b. on 20.11.2026,*i.e.*, the date on which the surgery of the applicant's/petitioner's father is scheduled;

c. on each day the father of the applicant/petitioner remains hospitalised, subject to a maximum of seven(7) days of such visits;

14. The same shall be subject to the following conditions:-

i. The applicant/petitioner shall be taken from Jail to the concerned Hospital at 09:00 AM and shall be brought back to Jail at 06:00 PM on the same date (*i.e.*, a maximum of nine hours);

ii. He shall remain in custody under the Escort. The Escort shall be provided by the concerned Jail Superintendent or Police Authorities, and shall consist of Police personnel in plain clothes;

iii. During the visit, the applicant shall meet his father, family members, or any other friend (except co-accused in any ongoing case); and

iv. The applicant/petitioner shall not use his mobile phone and shall

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not visit any place other than the concerned hospital.

15. The concerned Investigating Officer (IO) shall verify with the concerned hospital whether the applicant's/petitioner's father is to be admitted for surgery on 20.11.2026 and shall inform the Jail Superintendent today,*i.e.*, 18.11.2026 by 06:00 PM.

16. If the surgery is not verified or if it is postponed, this order shall not come into effect, and the applicant/petitioner shall be at liberty to move a fresh application.

17. The present application, along with any pending application/s, if any, stands disposed of in the above terms.

SACHIN DATTA, J

NOVEMBER 18, 2026/*at/vk*

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