

**HIGH COURT OF DELHI**

**Bench: Justice Rajnish Bhatnagar**

**Date of Decision: 22nd November 2023**

**BAIL APPLICATION NO. 3589/2023**

**VARUN ...APPELLANT(S)**

**VERSUS**

**STATE (NCT OF DELHI) & ANR. ...RESPONDENT(S)**

**Legislation:**

Sections 302, 307, 34 of the Indian Penal Code (IPC)

Section 439 of the Cr.P.C.

**Subject:** Bail application in a case involving charges under Sections 302/307/34 IPC for murder and related offences. The petitioner sought interim bail for attending regular classes for his PHD at the University of Gujarat.

**Headnotes:**

Bail Application – Rejection of Interim Bail in Murder Case – Petitioner, Varun, accused under Sections 302/307/34 IPC, sought interim bail for attending PHD classes at University of Gujarat – Application dismissed due to the serious nature of the allegations and potential threat to the complainant and witnesses. [Para 1, 4, 6-7, 11]

Comparison with Other Cases – Reliance on Kerala High Court and Delhi High Court orders for interim bail – Distinct facts and circumstances in the current case, where the petitioner is accused of a serious offence and is in judicial custody, unlike the cases cited where facilities like video conferencing were utilized. [Para 8]

Education Rights versus Judicial Custody – Emphasis on the gravity of the offence over the right to education – Question raised on the decision of the

petitioner to enroll in full-time coursework while in judicial custody, when other educational options are available. [Para 9-10]

Decision – Application for interim bail denied based on the nature and gravity of the offence and the accused's situation in judicial custody – Case listed for arguments on charge in the trial court. [Para 11]

Referred Cases:

- Pattakka Suresh Babu v. State of Kerala, CRL. M. APPL. NO. 3/2023 in CRL. A. 740/2018
- Nandan Puri v. State of NCT of Delhi, BAIL APPLN. 1142/2021

Representing Counsel:

For Petitioner: Ms. Rebecca M. John, Sr. Adv. with Mr. Rishikesh Kumar and Mr. Nilanjan Dey, Advocates

For Respondents: Mr. Raghuinder Verma, APP , Mr. Varun Bhardwaj, Mr. Pushpender Singh, Mr. Love Dixit and Mr. Rahul Kasana, Advocates for the complainant.

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## **ORDER**

### **RAJNISH BHATNAGAR, J**

1. By way of this order, I shall dispose of the present bail application filed by the petitioner under Section 439 Cr.P.C. seeking interim bail in case FIR No. 202/2023 under Sections 302/307/34 IPC registered at Police Station Jaitpur.
2. The petitioner is seeking interim bail for a period of 3 months on the ground that he has to attend regular classes for his PHD in the University of Gujarat campus as his session has already been commenced from 13.09.2023.
3. I have heard the learned senior counsel for the petitioner, learned APP for the state duly assisted by learned counsel for the complainant. I have also gone through the status report and perused the records of the case.
4. It was submitted by the learned senior counsel for the petitioner that the petitioner was granted interim bail on 14.08.2023 for period of 7 days for giving entrance exam of PHD and the petitioner had cleared his entrance exam, further got enrolled himself in PH. D program. It was further submitted by her that the petitioner was further granted interim bail on 31.08.2023 for

period of 6 days for verification of documents. It was further submitted that the petitioner now has to attend regular classes in the University of Gujarat campus as his session has already been begun on 13.09.2023, failing to which the admission of the petitioner will be cancelled. It was further submitted that the petitioner is a young boy of 23 years of age and his entire carrier is at stake due to the present false case and till the end of the trial if the petitioner is acquitted, irreparable loss and grave injustice would be caused to the petitioner due to his non attending of classes after his admission. It was further submitted that the petitioner has clean antecedents and is not involved in any other case.

5. Learned senior counsel for the petitioner has relied on the order of the Kerala High Court in ***PATTAKKA SURESH BABU V. STATE OF KERALA CRL. M. APPL. NO. 3/2023*** in ***CRL. A. 740/2018*** and order of the Delhi High Court in ***NANDAN PURI V. STATE OF NCT OF DELHI*** in **BAIL APPLN. 1142/2021** for the purpose of seeking interim bail.

6. On the other hand, it was submitted by learned APP assisted by learned counsel for the complainant while vehemently opposing the present bail application that the allegations against the petitioner are serious in nature. It was further submitted that the complainant was receiving threats from the accused persons either to withdraw or to settle the case and this petition might be a ploy to get out from the jail and to threaten the complainant as well as the other witnesses. It was further submitted that granting petitioner interim bail for such a long period of 3 months will hamper the trial. It was further submitted by learned APP that the petitioner had not disclosed the true facts before the trial court at the time of getting himself enrolled in the present course, as the trial court was not in know that the petitioner is getting enrolled in regular course.

7. In the instant case, the petitioner is an accused for offence under Section 302 IPC for which the trial is yet to commence. The case is listed before the trial court for the purpose of arguments on charge and the grant of interim bail for a period of 3 months will hamper the trial. The petitioner is accused in a murder case and there are allegations of threats to the complainant.

8. As far as the orders relied on by the learned senior counsel for the petitioner is concerned, there is no dispute with regard to the law laid down in the said orders but the facts in those cases are distinguishable with the facts and circumstances of the case in hand as in one of those cases the sentence was suspended under Section 389 Cr.P.C., i.e. after conviction, further it was only allowed by way of the video conferencing from jail itself and that is not

so in the present case. The situation would have been different if there was any facility of video conferencing for attending the PHD classes but the same has been clearly denied by the university in their reply filed along with the status report.

9. Undoubtedly, every individual has the right to pursue the education but in the present case the petitioner is an accused of a serious offence punishable under Section 302 IPC and has to be dealt accordingly looking into the gravity of offence.

10. One cannot also lose sight of the fact that in the present case, the petitioner is pursuing his PHD for which as per the reply received from the university he has to attend the full-time PHD coursework (consisting of two semesters) and the coursework is mandatory for PHD scholars, here I failed to understand as to why the petitioner has opted for pursuing his PHD from a university which requires to attend the full-time PHD coursework mandatorily despite being in judicial custody while various other options are being available for the persons in judicial custody to pursue their educational goals.

11. Therefore, keeping in view the entire facts and circumstances of the case and also looking into the nature and gravity of the offence no ground for interim bail is made out at this stage. The present petition is accordingly, dismissed.

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