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

+ **CRL.M.C. 7709/2025**

MOHAMED ALI JINNAH

.....Petitioner

Through: Mr. A. Nowfal, Mr. Shaikh Saipan,
Mr. Md. Arif Hussain, Advocates.

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Rahul Tyagi, SPP, NIA with Mr.
Vikas Walia, SPP, NIA with Mr.
Jatin, ASPP, NIA and Mr. Amit
Rohila, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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03.11.2025

CRL.M.A. 32227/2025 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

CRL.M.C. 7709/2025

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"], assailing the order dated 18.10.2025 passed by the Ld. ASJ-03, Patiala House Courts, New Delhi ["trial court"], whereby the application of the petitioner seeking custody parole for two weeks to visit and console his ailing parents and brother was rejected.



2. The petitioner, who is an undertrial in RC No. 14/2022/NIA/DLI titled '*NIA v. OMA Salam & Ors.*', lodged in Central Jail No. 1, Tihar, is facing prosecution under Sections 120B/121A/122/153A IPC and Sections 13/17/18/18A/18B/22C/38/39 of the Unlawful Activities (Prevention) Act, 1967 ["UAPA"]. He has remained in judicial custody since 22.09.2022.

3. The petitioner sought custody parole for two weeks citing serious ailments of his parents and brother. It was submitted that his mother, aged 65 years, suffers from Type 2 Diabetes, Hypertension, and has been diagnosed with Papillary Carcinoma of the Thyroid. The petitioner's father, aged 70 years, is a diabetic and hypertension patient with a prior history of stroke and his younger brother is also under continuous medical treatment. The petitioner wanted to assist his family and provide support. The application was, however, dismissed by the learned trial court on 18.10.2025 after obtaining verification report from the concerned authorities stating that the parents and brother of the petitioner were not suffering from any emergent/life threatening ailments.

4. Being aggrieved, the petitioner has filed the present petition with following prayer:-

"a. Allow the instant Criminal Application and set-aside the Impugned Order dated 18.10.2025 passed by the Ld. Additional Sessions Judge-03, N.D.D. Patiala House Courts, New Delhi, in R.C.No.14/2022/NIA/DLI of NIA, New Delhi.

b. Release the Petitioner on Custody Parole so as to meeting his ailing parents, brother and console them suitably in the interest of justice for the period of 2 weeks



c. Pass any further order/s as this Hon'ble Court may deem fit and proper in the interest of natural justice."

5. Ld. Counsel for the petitioner, submits that the ailments of the petitioner's parents, particularly his mother's cancer diagnosis, fall within the ambit of "severe illness". It is argued that the petitioner being the elder son has a duty to take care of his ailing parents and provide emotional and logistical support. The Ld. Trial court failed to consider the humanitarian aspect and the Delhi Prison Rules, which permit inmates to visit severely ill family members.

6. It is also stated that petitioner has clean antecedents and has been in judicial custody since 22.09.2022 and due to his incarceration, the petitioner has been unable to support his ailing parents. It is contended that Rule 1203 of the Delhi Prison Rules, 2018 mandates that Custody Parole may be granted to the under trial prisoner in the eventuality of serious health issue of family member.

7. Ld. Counsel for the petitioner further submits that the petitioner's right to visit and take care of his family is protected under Article 21 of the Constitution of India. It is contended that denial of permission on the humanitarian ground of supporting his family would cause deep emotional trauma to the petitioner, and would amount to an unreasonable restriction upon his fundamental right. It is prayed that custody parole be allowed.

8. *Per contra*, learned Special Public Prosecutor for the NIA opposes the application. It is submitted that the case against the petitioner, as per



allegations in chargesheet, pertains to conspiracy wherein the petitioner being NEC member of the banned organization Popular Front of India (PFI) along with other members of the organization, was involved in raising and channelizing funds for the purposes of carrying out unlawful and terrorist activities and propagating a divisive ideology against the Government of India. The charges against the petitioner are under Sections 120B/153A IPC and Sections 13/17/18/18A/18B/22C/38/39 of the Unlawful Activities (Prevention) Act, 1967 [“UAPA”].

9. Learned SPP draws the attention of the Court to Rule 1203 of Delhi Prisons Rules, 2018, which deals with eventualities wherein custody parole may be granted and states that parole is permissible only in exceptional or emergent situations of “serious illness or death” in the family, which is not the case herein. It is submitted that no life-threatening condition of the petitioner’s parents has been shown which would justify the grant of custody parole and that adequate medical treatment is already being provided for the petitioner’s family members.

10. It is argued that the offences under UAPA are grave and serious in nature- directly affecting the national security. It is also submitted that the trial court rightly dismissed the petitioner’s plea for grant of custody parole as petitioner could not make a fit case for the same, and therefore, there is no impropriety or infirmity in the order passed by the learned trial court. It is prayed that considering the seriousness of the offence committed and non-existence of emergent situation, custody parole plea of the petitioner be rejected.



11. 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 lawful detention. Article 21 of the Constitution guarantees the right to life and personal liberty, which encompasses within its ambit the right to observe one's family duties and personal obligations.

12. The relief of custody parole is granted to the inmates for specific eventualities which is governed by Rule 1203 of the Delhi Prison Rules, 2018, which reads as under:-

"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."

13. The purpose of custody parole is to allow a prisoner to attend to pressing humanitarian or personal obligations such as funerals, last rites, or serious health issue of family member, 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 dignity.



14. In the present case, while the petitioner has placed on record certain medical certificates relating to his parents' and brother's health, none of these documents indicate any emergent medical procedure or life-threatening situation that necessitates the petitioner's presence. The learned trial court while dismissing the application of the petitioner vide impugned order dated 18.10.2025, rightly observed that the ailments described are manageable conditions under ongoing medical supervision.

15. This Court also notes that the petitioner is facing trial for offences under the UAPA, where the allegations involve conspiracy and unlawful activities affecting national integrity. While the presumption of innocence must operate until conviction, the gravity of the charges cannot be ignored in the exercise of discretionary powers relating to parole.

16. The right to family life under Article 21 must indeed be respected even for undertrial prisoners, but such right is subject to lawful restrictions imposed in the interest of security, discipline, and the administration of justice. The petitioner's desire to console his parents, though understandable, cannot by itself constitute a ground for emergent parole under Rule 1203 of the Delhi Prison Rules, 2018. While dismissing the application, the Ld. Trial court has taken note that even though the diagnosis of the petitioner's mother suggest Papillary Carcinoma disease, but no surgery is scheduled and there is no life threatening situation warranting the grant of custody parole to the petitioner.



17. In view of the above discussion, this Court finds no infirmity in the impugned order dated 18.10.2025 passed by the Ld. Trial court. The petitioner has failed to make out any emergent or exceptional ground as envisaged under Rule 1203 of the Delhi Prison Rules, 2018, for grant of custody parole.

18. Accordingly, the petition is dismissed. Pending applications, if any, also stand disposed of.

RAVINDER DUDEJA, J

NOVEMBER 3, 2025/AK