

Rekha Patil

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL ASDB-LD-VC -NO. 88 OF 2020

Sudha Bharadwaj ... Appellant
Versus
National Investigation Agency
Through NIA Mumbai. ... Respondent

Ms. Ragini Ahuja i/b Yug Mohit Choudhary, for the Appellant.
Mr. Anil Singh, ASG a/w S.D. Patil a/w D.P. Singh, for N.I.A.
Mr. Deepak Thakare, PP a/w S.R. Shinde, APP for the State/Respondent.

CORAM : R.D. DHANUKA &
V.G.BISHT, JJ.
DATE : 28th AUGUST, 2020.
(THROUGH VIDEO CONFERENCING)

P.C.:

By this Appeal filed under Section 21(4) of the National Investigation Agency Act, 2008, the appellant has impugned the order dated 29th May, 2020 passed by the learned NIA Special Court in Bail Application No. 641 of 2020 in NIA Special Case No. 414 of 2020 rejecting the bail application filed by the Appellant (in custody).

2 We have heard Ms. Ahuja, learned counsel for the Appellant, Mr. Anil Singh, learned Additional Solicitor General for NIA and Mr. Thakare, learned Public Prosecutor for the State. We have also perused the documents brought on record by the parties. Learned counsel for the Appellant vehemently argued before this Court that the medical

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report dated 21/08/2020 submitted before this Court by Medical Officer, Mumbai District Women Prison-2, Mumbai, Byculla-08 is false. She placed reliance on the report dated 21/07/2020. She submits that, according to the said report, petitioner was suffering from Diabetes mellitus (RBS 194 Today), Moderate Depression; osteo arthritis, Ischemic disease, and Tinea Corporis (Skin fungal infection). She invited our attention to the latest report dated 21/08/2020 and would submit that on comparison, both these reports would clearly indicate that the latest report dated 21/08/2020 submitted by NIA is ex-facie false and inconsistent with the report dated 21/07/2020. She submits that the report dated 21/08/2020 does not deal with the diseases suffered by the Appellant like hypertension, osteo arthrities, ischemic disease and Tinea Corporis (skin fungal infection) as well as diabetes. It is submitted by the learned counsel that the report dated 21/08/2020 thus cannot be considered by this Court while considering the appeal filed by the Appellant.

3 Mr. Singh, learned ASG invited our attention to the grounds raised by the Appellant in Appeal Memo in this Criminal Appeal and would submit that the Appellant has approached this Court on the ground that she is 58 years old and has pre-existing medical conditions

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of diabetes and hypertension making her extremely susceptible to contracting COVID-19 in Byculla Jail. He relied upon medical report dated 21/08/2020 and dealt with the medical report dated 21/07/2020 which are part of the record. It is submitted that the Appellant was thoroughly examined by the Medical Officer at Mumbai District Women Prison, Byculla, Mumbai and after examining the Appellant, the Medical Officer has submitted the said medical report dated 21/08/2020 which is self explanatory. It is submitted by the learned ASG that even in the case of Varavara Rao, who required medical treatment in the private hospital was admitted to Nanavati Hospital and was provided proper treatment.

4 Mr. Thakare, learned Public Prosecutor adopts the submissions made by the learned ASG and would submit that as and when appellant requires any further treatment, medical facilities and hospitalization, as may be advised, State Government would provide such medical treatment.

5 A perusal of the impugned order clearly indicates that the learned Trial Judge while rejecting the application for bail has recorded detailed reasons. The Appellant has filed this Appeal mainly on the grounds that she is 58 years old and has pre-existing medical conditions of diabetes

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and hypertension making her extremely susceptible to contracting COVID-19 in Byculla Jail. The learned Trial Judge has considered the medical condition of the Appellant in the impugned order. Pursuant to the order passed by this Court, the Medical Officer, Mumbai District Women Prison, Byculla, Mumbai submitted a Medical Report of the Appellant dated 21/07/2020 which indicates that the Appellant as on date of said report had diabetes mellitus (RBS 194), Moderate Depression; osteo arthrities, Ischemic disease and Tinea Corporis (skin Fungal infection). The said report further indicates that she was provided medication for such diseases. The report indicates that she was examined by the Medical Officer and her vital parameters were Temp- 97o F, pulse 103/m, Bp 130/90, spo2(oxygen saturation) 97% and Random blood sugar 198 mg%. It is opined in the said report that on the date of such report she was provided with medication as advised by experts and diabetic diet. Her vital parameters were in normal limits. If required she would be sent to J.J. Hospital.

6 We have perused the report dated 03/08/2020 placed on record submitted by Medical Officer, Byculla District Women Prison, Byculla, who opined that the Appellant was provided with treatment by the Medical Officer, Mumbai District Prison for Diabetes Mellitus (RBS 153 today), moderate depression, osteo arthritis, Ischemic disease and Tinea

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Corporis (skin fungal infection). It is opined in the said report that she was examined by various doctors and provided with various medication. On the examination, the Appellant's vital parameters were Temp 95o F, Puls 90/m, Bp 120/80mm, spo2 (oxygen saturation) 99%, Random Blood Sugar 153.

7 We have also perused the Medical Report dated 21/08/2020. A perusal of the said report indicates that the said latest report was submitted pursuant to the order passed by this Court directing the Jail Authorities. The report states that the Appellant was examined on 20/08/2020 by Prison Medical Officer. On examination, she was complaining of bodyache. She is k/c/o diabetes malletus, moderate depression and asked to continue medications. The treatments given to her also have been set out in the said report. The report further indicates that all the medicine are available in the said women prison and being provided to her on regular basis at government cost.

8 The said report further indicates that her general health condition is stable and satisfactory. In para 8 of the said report it is stated that prisoner with co-morbidity like diabetes, hypertension, Asthma, TB, HIV are examined and tested for oxygen level, pulse rate, body temp, blood sugar, blood pressure at regular interval. The essential medicine are

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provided to these prisoners on daily basis and due care has been taken by Prison Authorities. The report further indicates that various facilities are provided by the said Mumbai District Women Prison including immunity boosters, use of infrared digital thermometer, use of sanitizers, use of masks and various other medical facilities. In the last para of the said report, the Medical Officer has opined that at present the undertrial Prisoner No. 566/20 namely Sudha Bhardwaj's health condition ('Appellant' herein) is stable and satisfactory and for her ailments treatment is available in the hospital. She is provided all necessary medicines as and when required.

9 We are inclined to accept the report dated 21/08/2020 submitted by the Medical Officer, Mumbai District Women Prison, Byculla, Mumbai. In our view, there is no inconsistency in the reports dated 21/08/2020 and 28/08/2020 placed on record. The statement made by Mr. Thakare, learned PP for State that as and when any further treatment, medication and hospitalization is required to the Appellant as may be advised by the concerned Medical Officer, same would be provided to the Appellant. The statement is accepted. In our view, in view of the facilities being made available in the Mumbai District Women Prison, Byculla and in view of the statement made by learned PP

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and learned ASG for NIA recorded aforesaid, the Appellant is taken care of in so far as her health conditions is concerned.

10 In view of the aforesaid observations that there is no inconsistency in the reports, we are not inclined to direct the NIA or the State to file any affidavit to explain the inconsistency in the reports.

11 In our view, no case is made out for grant of bail. Appeal is devoid of merits.

12 Appeal is accordingly dismissed.

13 This order will be digitally signed by the Personal Assistant of this Court . Associate of this Court is permitted to forward the parties the copy of this order by E-mail. All concerned to act on digitally signed copy of this order.

(V.G. BISHT, J.)

(R. D. DHANUKA, J.)