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**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Misc Suspension Of Sentence Application (Appeal)
No. 328/2021

Asharam @ Ashumal S/o Shri Thevardass, B/c Sindhi, Aged
About 83 Years, R/o Saint Shri Asharam Babu Ashram, Motera
Road, Sabarmati, Police Station Chandkheda, District
Ahmedabad (Gujarat)
(Presently Lodged In Central Jail, Jodhpur)

----Petitioner

Versus

The State of Rajasthan.

----Respondent

For Petitioner(s) : Mr. J.S. Choudhary, Sr. Advocate with
Mr. Pradeep Choudhary through VC.

For Respondent(s) : Mr. Anil Joshi, PP.

**HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE DEVENDRA KACHHAWAHA**

Order

21/05/2021

Heard learned counsel representing the applicant appellant
and learned Public Prosecutor. Perused the material available on
record.

The instant application for temporary suspension of
sentences has been moved on behalf of the convict appellant
Asharam @ Ashumal, aged about 83 years. It may be mentioned
here that the applicant-appellant is also facing trial in another
case at Gujarat involving the offence under Section 376 IPC and is
in custody in connection with the said case as well. As per the
material available on record, the applicant-appellant got infected
by COVID-19 Virus while suffering Life Imprisonment at the



Central Jail, Jodhpur and as a measure to provide treatment, he was shifted to the M.D.M. Hospital, Jodhpur. Since the health status of the convict appellant was not improving at the M.D.M. Hospital, he was shifted to the All India Institute of Medical Sciences (AIIMS), Jodhpur where he was provided complete treatment for COVID-19 infection as per protocol. In the intervening period, the appellant developed internal gastrointestinal bleeding as a result whereof, his haemoglobin dropped to critically low level and accordingly, he was provided treatment for the said disorder including blood transfusion, etc.

A medical report/ summary (dated 19.05.2021) of the treatment provided to the convict appellant has been received from the All India Institute of Medical Sciences, Jodhpur which is reproduced herein below for the sake of ready reference:

"Sub: Summary of Asharam alias Ashumal s/o Thewardas alias Thewmal (AIIMS/JDH/2021/05/002880)

The patient was referred to AIIMS Jodhpur from MG Hospital (Dr. S N Medical College) Jodhpur on 7th May, 2021 for further management of COVID-19 disease. A medical board was constituted for his management. In addition to the COVID-19 specific treatment, the patient also continued to receive the treatment for trigeminal neuralgia, ischemic heart disease, hypothyroidism and prostate hyperplasia along with his Ayurvedic medicines, which the patient was already receiving before admission. Since admission, the patient gradually improved, his fever subsided and he is not on oxygen therapy for last three days. He has completed 14 days after test positivity hence fit for discharge for COVID 19 disease according to ICMR criteria.

On the evening of 14th May 2021, a rapid fall in his hemoglobin levels was noticed to 3.7 gm%, which was found to be due to gastrointestinal bleeding. A team of doctors evaluated him and treated him for intestinal bleeding including two units of blood transfusion (packed cells) after his consent for the same. Antiplatelets and anticoagulant were stopped. His hemoglobin levels improved by the next morning (15th May 2021) to 5.5 gm



%, and the condition stabilized after initial treatment. He was advised investigations for which he refused initially but gave consent on 16th May 2021. He was transfused two units of packed red blood cells on 15th May 2021 and 16th May 2021 after consent. A reference for upper gastrointestinal endoscopy was made to MDM hospital with information to Jail Superintendent as this facility was not available at AIIMS, Jodhpur. His endoscopy performed on 17th May 2021 after his consent revealed duodenal erosions. He also underwent contrast enhanced CT chest and abdomen along with CT angiography after due consent, showed evidence of multiple colonic diverticulosis without evidence of active bleeding (report attached - Annexure-1). He was treated with antibiotics and supportive care with which his condition stabilized. However, he has passed stool mixed with blood on 18th May 2021 morning. He was advised proctoscopy and colonoscopy to further evaluate the cause of bleeding but he denied consent for the same.

Presently his condition is stable and vitals on 19.5.21 are Pulse 96/min, blood pressure 128/80 mmHg, respiratory rate 20/min, spO2 96% on room air and is afebrile. His haemoglobin has improved to 8 gm% (18th May 2021 evening).

Recommendations

Presently his condition is stable and he is fit for discharge. He requires further investigations and follow up for his gastrointestinal bleeding."

Apparently, as per the conclusion of the treating doctors at the All India Institute of Medical Sciences (AIIMS), Jodhpur, the condition of the applicant-appellant is presently stable and he is fit for discharge. However, it has been advised that the appellant requires further investigation and follow-up for his gastrointestinal bleeding. This facility/ treatment is unquestionably available at the M.D.M. Hospital, Jodhpur.

Learned Senior Counsel Shri J.S. Choudhary vehemently and fervently urged that the convict has expressed his desire in writing that he does not desire to take the allopathic line of treatment and instead, his followers may be allowed to set up a fully functional



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medical facility at his Ashram at Pal Village, Jodhpur so that he can be treated by Ayurveda. Shri Choudhary further submitted that in case, the sentences awarded to the appellant are suspended, he and his followers are ready and willing to abide by any condition which may be imposed by the Court. However, when a pertinent query was put to Shri Choudhary regarding the medical set up in the Ashram, Shri Choudhary stated that in case, the sentences awarded to the appellant are suspended, the requisite medical facility could be set up. Alternatively, a request was made by Shri Choudhary that the appellant may be sent to the Rajasthan Ayurved University, Karwar, Jodhpur for treatment of his gastrointestinal bleeding and other ailments. However, as on date, there is no certificate/ opinion of the doctors of the said University that the ailments with which, the convict appellant is afflicted, can be treated by Ayurveda. It may be mentioned here that at the All India Institute of Medical Sciences, Jodhpur, when the haemoglobin levels of the convict appellant dropped, he had to be infused with blood transfusion so that the haemoglobin level could be improved. Admittedly, blood transfusion would not be possible at the Rajasthan Ayurved University, Karwar, Jodhpur.

Be that as it may. Suspending the sentences awarded to the appellant in this case would be nothing short of an exercise in futility because immediately on his release from the Central Jail, Jodhpur, he would be required to be taken to State of Gujarat in connection with the case pending trial as a production warrant certainly would be in force. The prayer of Shri Choudhary that a medical facility can be set up at the Ashram of the appellant in Pal Village, Jodhpur so as to provide him treatment is also not tenable because this Court is cognizant of the fact that whenever, the



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convict has been taken out from prison even for attending the dates of hearing during trial, his followers would to form huge congregations which would create law and order situations and presently, the risk of spread of COVID infections would become imminent. Otherwise also, no medical facility is available at the Ashram.

In this background, the district and jail administration are directed to ensure that proper treatment is provided to the convict appellant at the suitable medial institution in light of the observations made in the medical reports/ certificates issued from the All India Institute of Medical Sciences, Jodhpur. It shall also be ensured that no sooner, the convict is lodged back at Jail after recovery, he will be provided proper treatment, nutritious diet and safe environment looking to his old age and medical condition.

With the aforesaid observations and directions, the instant application for temporary suspension of sentences is dismissed.

(DEVENDRA KACHHAWAHA),J

(SANDEEP MEHTA),J

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