



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**BAIL APPLICATION NO.361 OF 2023
WITH
INTERIM APPLICATION NO.3414 OF 2023
WITH
INTERIM APPLICATION NO.779 OF 2023
WITH
INTERIM APPLICATION NO.3791 OF 2023
IN
BAIL APPLICATION NO.361 OF 2023**

Rakesh Kumar Wadhawan] .. Applicant
vs.
State of Maharashtra] .. Respondent

Mr.Hrishikesh Chitaley a/w Sagar Shetty and Ashish Verma for the Applicant.

Ms.Lisa Das i/b Jay & Co. for the Interavenor.

Mr.S.R. Agarkar, APP for the State.

Dr.Aman Pandey, Chief Medical Officer present.

Mr.Ranjeersinh Namdev Patil, Jailor, Mumbai Central Prison present.

Mr.Harshad Ahirrao, Superintendent, Mumbai Central Prison present.

CORAM : BHARATI DANGRE, J

DATE : 26th October, 2023.

P.C.

1] As directed earlier, a report from the Associate Professor and Head of Unit, General Medicine Unit 5, J.J. Group of Hospitals, is placed before me through the learned APP.

The Medical Superintendent vide communication dated 23.10.2023, has forwarded the report to the Superintendent, Mumbai Central Prison, Mumbai and I have perused the said report.

2] In compliance of the earlier directions, the patient was referred to various departments for analysis and examination, and upon carrying necessary tests, the following inference is extracted from the multi-specialities and the same is compiled in the report, which reads thus :

1. Cardiology – Continue Cardiac Medications as advised.
2. Neurology – Continue Medications as advised.
3. Orthopedics – Advised Physiotherapy and Medications.
4. Nephrology – Conservative Management with Monitoring of Urine Output and Renal Function Tests.
5. Psychiatry – Patient can be discharged from Psychiatry side with follow up in OPD, to continue previous Medications.
6. Chest medicine – Continue overnight Bipap support and Medications as advised.
7. Urology – Advised for Medications and Conservative Management.
8. Dermatology – Advised Medications and Conservative Management.
9. ENT- Advised Medications and Conservative Management.

The aforesaid report has the Reports of the distinct departments as its accompaniments and what is extracted above is gist of the follow-up treatment advised by each of the department.

3] I have perused the report reflecting the current health status of the Applicant.

It is no doubt true that the Applicant is a patient with diabetes mellitus, hypertension, chronic kidney disease, Ischemic Heart Disease with history of Angioplasty and permanent dual chamber pacemaker insertion and he also suffer from depressive disorder coupled with recurrent urinary tract infection.

In the wake of the symptoms shown by him in form of generalized weakness and giddiness, he was taken to the hospital and as per the earlier directions he was admitted as an indoor patient for the purposes of carrying out the necessary tests to ascertain the exact cause of his giddiness.

Upon the necessary tests being performed by the Heads of distinct departments, the Report which is placed before me, indicate that at present he is advised to continue medication prescribed. As far as Psychiatry department is concerned, he has received discharge with the same advice of continuing the previous medication.

The Report, therefore, is not suggestive of any urgent measures required for treating the Applicant and it is evident that his age is also a relevant factor, which is causing him tired.

For his release on bail on medical ground, unless it is pointed out that he is required to undergo a particular process or procedure for

curing any ailment, I do not think that the relief prayed deserve to be granted.

Medication is the only solution which is offered as on date, unless in future for dealing with a particular issue he require some hospitalization. Hence, I am of the opinion that, at this stage, release of the Applicant on the ground of his medical ailment do not deserve any consideration and I am not inclined to grant the said request.

4] The learned counsel Mr.Chitaley representing the Applicant seek his release on bail on medical grounds for a period of four weeks and he would assertively submit that the Applicant is suffering from various health related issues, which involve multiple systems and as indicated in the Report he require continuous nursing care and monitoring, as he is not in a position to take care of himself. He would submit that, as per the report, the patient has developed bed sores and suffers from urinary incontinence and hence he must be constantly monitored by check-up of his Blood, Urine Profile and ECG.

As a part of treatment from the Orthopedic Departments, he is advised to undergo physiotherapy.

5] Though Mr.Chitaley request for release of the Applicant for a limited period of four weeks, as I am of the opinion that his old age and

the age related issues which have been looked into and the same have been assessed on all these aspects, the conclusion reported is, he must continue his medication as advised and on certain counts like the Nephrology as well as the neurology department and conservative management with medications. Hence it is not a case that he must immediately be released on Medical Bail, but it has become necessary that the advised given in the report must be strictly adhered to and in particular care shall be taken to offer medications as advised.

6] In the morning session, I requested the learned APP to have the concerned Medical Officer from the Central Prison present in the Court alongwith the Superintendent of Jail, to ascertain whether the necessary facilities can be made available to the prisoner, as from the perusal of the Report, I am of the opinion that the follow-up treatments suggested in the report is medication and as far as Orthopedic Department is concerned, there is an advise to undergo physiotherapy. On all other counts, the patient is advised for medication and management and continuous monitoring.

7] Dr. Aman Pandey, the Chief Medical Officer from Mumbai Central Prison is present in the Court and he expressed his helplessness on several counts as he would submit that there are two

MBBS Doctors attached to Jail Hospital in Mumbai Central Prison, who are assisted by one BAMS doctor. When specifically asked, whether they are assisted by any supporting staff, including the nursing staff, his answer is in the negative.

On my specific inquiry as to how many patients are admitted in the hospital, his answer is about 70 to 80.

Apart from this, I have also been informed that no facility of physiotherapy is available in the jail, but if the Physiotherapist from the JJ Hospital is deputed, he /she can take care of the physiotherapy treatment as per the requirement of the patient.

8] If the patient is not to be released on bail, on the ground that his health condition warrant any procedure or surgery, and what is to be provided is a follow up treatment as advised in the Report forwarded by the Medical Superintendent of JJ Group Hospitals, then it must be ensured that he is well taken care of and the care must be required to be taken on the following counts :

- a]Regular medication;
- b]Physiotherapy;
- c]Routine Monitoring and checkup of his blood, urine profile etc.
- d]Intermittent conduct of ECG;
- e]Nursing care and Monitoring which would including tackling with the bed sores

9] As far as the medication is concerned, the Chief Medical Officer shall permit the medicines to be brought by the family of patient, to be administered, provided they are arranged in advance and they shall be administered to him after scrutiny, as per the necessary prescription.

10] In order to ensure that the prisoner is offered physiotherapy sessions as advised by the Orthopedic Department, but since it is informed by the CMO that the facility is not available, I deem it appropriate to direct the Dean, J.J. Group of Hospitals, to depute a Physiotherapist for offering physiotherapy to the Applicant in the Jail as per the requirement as necessary and advised, even on each day by fixing necessary hours for undergoing the physiotherapy.

As far as nursing and monitoring is concerned, since it is the submission of the CMO, that the doctors in the Jail are not assisted with any nurse and the task is left to the some of the inmates, I also deem it appropriate to direct the Dean, J.J. Group of Hospitals to depute one male nurse to the central prison, who shall report at fix hour of time and take care of the Applicant, which would include nursing, maintaining necessary hygiene as well as taking care of his other requirements.

The Dean of JJ Hospital, shall depute a male nurse by specifying

the time on which he shall cater to the patient in the Jail on regular basis, and in his absence on any single day, a substitute male nurse shall be arranged.

The male nurse shall be instructed to keep a record of the blood pressure, urine profile etc. and other advisable parameters of the patient.

The JJ Hospital is also requested to forward the bed, which would take care of his bed sores and this shall be arranged forthwith.

11] It is informed by the learned counsel Mr. Chitale that in terms of the order passed by the Court, the Applicant is presently in JJ Hospital.

Once the facilities which are enumerated above are taken care of and which shall be arranged on or before 30.10.2023, the Applicant shall be discharged from the Hospital and admitted in Prison Hospital.

Needless to state that the Chief Medical Officer, for any emergent situation shall be in touch with the concerned Doctors from the JJ Group of hospitals, who have examined him.

This order shall be communicated to the Dean of J.J. Group of Hospitals by the learned APP Mr. Agarkar.

List on 08.11.2023, for compliance.

12] As regards Bail Application on merits is concerned, let the

learned APP obtain necessary instructions and in case if he is desirous to file reply, the same shall be filed on or before 06.11.2023.

List the Bail Application for hearing on 06.11.2023.

[BHARATI DANGRE, J]