

GAHC010045202023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.A./85/2023

KAMAL DIHINGIA
S/O LATE BISWADHAR DIHINGIA, RESIDENT OF NOHAJAR,
KONWARGAON, PS BORBORUAH, DIST DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR. A C BURAGOHAIN

Advocate for the Respondent : PP, ASSAM

Linked Case : I.A.(Crl.)/188/2023

KAMAL DIHINGIA
S/O LATE BISWADHAR DIHINGIA
RESIDENT OF NOHAJAR
KONWARGAON
PS BORBORUAH
DIST DIBRUGARH
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for : MR. A C BURAGOHAIN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 23.08. 2023
(K.R. SURANA, J)

Heard Mr. A.C. Buragohain, learned senior counsel, assisted by Mr. R. Singh, learned counsel for the appellant and Ms. S. Jahan, Addl. Public Prosecutor for the State respondent.

2. The pursuant to the order dated 19.04.2023, passed in this interlocutory application, the applicant who is the appellant in the connected appeal had been medically examined at the Assam Medical College and Hospital, Dibrugarh on 23.06.2023 and was discharged on 26.06.2023 and he was diagnosed of oesophagitis and Pangastritis.

3. The learned senior counsel for the applicant has submitted that as per his instruction the applicant is having difficulty in swallowing food and that the applicant is being fed through a rice tube for last few days. Accordingly he has submitted that the applicant is unable to take normal food and his health condition has been deteriorating.

4. The learned Addl. PP has produced a bunch of documents which she has received, which contains the forwarding letter by the Superintendent of Central Jail, Dibrugarh by which the medical report of the applicant was forwarded. As per the report dated 19.08.2023 by the Medical & Health Officer-I, Central Jail, Dibrugarh addressed to the Superintendent of Central Jail, Dibrugarh, it has been mentioned that the applicant was hospitalized at Assam Medical College and Hospital, Dibrugarh from 23.06.2023 to 26.06.2023 where he had undergone medical treatment as well investigations and that follow-up check up was also done on 18.08.2023 and that the applicant was responding to the treatment and doing well. Accordingly, it is submitted that in view of the said report, there is no impediment in the treatment of the applicant in the Central Jail, Dibrugarh.

5. It appears that if a person is suffering from oesophagitis, it is a disease where there is inflammation of the oesophagitis, which can be painful and would cause difficulty in swallowing. Moreover, when a person is suffering from pangastritis, he is suffering from inflammation of the entire stomach wall.

6. However, be that as it may, the nature of the disease which the applicant is suffering, it appears that the applicant would be required to be examined by the doctors for appropriate treatment and diet.

7. Therefore, the court is inclined to direct the Superintendent of District jail, Dibrugarh to take the applicant for further medical examination at Assam Medical College and Hospital, Dibrugarh as to whether the applicant can be

given treatment in jail or whether hospitalization is required; if so for how many days. In the event, the applicant is hospitalized, the authorities of the Central Jail Dibrugarh shall also permit one attendant of the applicant's family to attend him at hospital, if so required.

8. The Superintendent of Central Jail, Dibrugarh shall send the report of the medical condition of the applicant to the Addl. PP through email for being produced before the Court.

9. A copy of this order be furnished to the learned Addl. PP for onward transmission to the Superintendent of Central Jail, Dibrugarh.

10. The applicant is also at liberty to produce the certified copy of this order to the Superintendent of District Jail, Dibrugarh.

11. List the matter on 01.09.2023.

JUDGE

JUDGE

Comparing Assistant