HC-KAR

NC: 2026:KHC:16901-DB
CRL.A No. 415 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 415 OF 2026

BETWEEN:

P ABDUL KHADAR @
ABDUL KHADAR PUTTURU
S/O LATE ISMAIL
AGED ABOUT 59 YEARS
R/AT NO.9/228A, LOWER BAZAR HOUSE,
NEAR THOUHEED SCHOOL, BANTWALA,
DAKSHINA KANNADA -574 211.

...APPELLANT

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY K. G. HALLI PS, BENGALURU,
REP. BY SPECIAL PUBLIC PROSECUTOR,
ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX,
OPP. TO VIDHANA SOUDHA, BENGALURU -560 001.

...RESPONDENT

(BY SRI. PRASANNA KUMAR P., SPL.P.P.)

Digitally signed by LAKSHMI T
Location: High Court of Karnataka

THIS CRL.A IS FILED U/S 21(4) OF NIA PRAYING TO SET ASIDE THE ORDER DATED 24.01.2026 PASSED BY THE HONBLE XLIX ADDL.CITY CIVIL AND SESSIONS JUDGE (SPECIAL JUDGE FOR TRIAL OF NIA CASES) (CCH 50) BENGALURU IN SPL.C NO.744/2023 AT ANNEXURE-A AND CONSEQUENTLY APPRECIATE THE APPLICATION U/S 439(1) FILED BY THE APPELLANT AT ANNEXURE-D AND ETC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

This appeal is preferred praying to set aside the order dated 24.01.2026 passed by the Court of XLIX Additional City Civil and Sessions Judge (Special Judge for trial of NIA cases), (CCH-50), Bengaluru, in Spl.C.No.744/2023 and consequently to grant interim bail to the appellant on medical ground, for a period of 60 days.

2. Heard the learned counsel for the appellant and learned Special Public Prosecutor appearing for the respondent.

3. It is submitted by the learned counsel that the appellant was arrested on 23.09.2022 and he is languishing in judicial custody for the past three and a half years and he has developed several age-related ailments due to long

incarceration. He is suffering from hypertension and ischemic heart disease and diminished vision in both eyes. The doctor has advised him for a cataract surgery, but surgery was not done due to unavailability of acrysof IQ lens in Minto Hospital. He further submits that the appellant has to take treatment for his heart disease and if proper treatment is not given on time, the health of the appellant will get worse and there are chances of cardiac attack and also losing of both eye vision.

4. The Learned Special Public Prosecutor has opposed the prayer by filing statement of objections. He contented that the Central Prison, Parappana Agrahara, where the appellant is lodged is equipped with sufficient medical facilities and staff to cater to the needs of inmates and provide medical assistance. Further, Government hospitals such as Victoria and Bowring also have specialized wing for treatment of under trial prisoners and the said hospitals are equipped with medical facilities to cater to the needs including surgery. Hence, submitted that the appellant can be treated at the aforementioned Government hospitals.

5. The learned Special Prosecutor further contented that the appellant has been provided with regular medical treatment. He was advised surgery and the same was not done due to non-availability of acrysof IQ lens in Minto hospital and in the event of availability of the said lens, the surgery can be conducted in the said hospital and non-availability of the said lens, would in itself not be a valid ground to seek the relief of interim bail. He has therefore sought to dismiss the appeal.

6. We have perused the medical report pertaining to the appellant and also the reasons assigned by the learned Sessions Judge for rejecting the prayer for bail.

7. As per medical records pertaining to the appellant, issued by the Medical Officer, Central Prison, Bengaluru, appellant is a known case of hypertension and ischemic heart disease on tab, Ecosprin and anti-hypertensive medications. On 26.02.2025, 05.03.2025, 13.03.2025 and 26.03.2025 he was referred to Minto Eye Hospital for complain of diminished

vision in both eyes and advised investigations, hematology opinion for polycythemia, Physician's opinion on fitness for right cataract surgery and nephrologist's opinion. On 16.02.2025, he was referred to blood bank for therapeutic phlebotomy, anesthetist, Cardiologist for fitness for right cataract surgery. On 19.04.2025, cardiology department has given fitness for surgery with mild cardiac risk. On 23.04.2025, 14.05.2025 and 21.05.2025, he visited ophthalmology department, advised PT/INR/Tsh test reports shows normal and advised cataract surgery, but surgery was not done due to unavailability of acrysof IQ lens in Minto Hospital.

8. The impression of the Medical Officer, as per the report is that the appellant is a known case of hypertension and ischemic heart disease on tab, Ecosprin and anti-hypertensive medications. He was advised right cataract surgery with mild cardiac risk at Minto Eye Hospital, but surgery was not done due to unavailability of Acrysof IQ lens in the said hospital. It is not stated that in other hospitals,

the said facility or the IQ lens is available.

9. The submission of the learned counsel for the appellant is that, if the surgery is not conducted and proper treatment for the heart ailment is not given on time, the health of the appellant will get worse and there is a chance of cardiac attack as well as losing both eyes vision, since, as per the report, the appellant is suffering from diminished vision in both eyes.

10. The Learned counsel for the appellant has relied on a decision of the Delhi High Court in ***Vijay Agrawal V/s. Directorate of Enforcement*** **Bail Application No.1762/2022 and Crl.M.A.No.11556/2022**. It is useful to refer to the relevant para which is as under:-

> *"Howsoever serious the offence may be, the health condition of a human being is paramount. The custody during the period of investigation cannot be termed to be punitive in nature. The health concern of a person in custody has to be taken care of by the State and keenly watched by the judiciary. Every person has a right to get himself adequately and effectively medically treated. Article 21 of the Constitution not only gives a fundamental right to live but the right to live with dignity. Right to live a healthy life is also one of the facets of fundamental rights granted by the Constitution of this Country. The consistent view has been taken that if sufficient treatment*

is available in the jail then preferably the same should be provided to the prisoners. This Court firmly believes that a person in custody suffering from serious ailment should be given an opportunity to have the adequate and effective medical treatment. The discretion for granting the interim bail on medical ground may not be exercised only at a stage when the person is breathing last or is on the position that he may not survive.

16. The kind of ailments which have been informed that the petitioner suffering from are really very painful and needs immediate redressal. Therefore this Court, without going into the merits of the case and only on a limited point that let the petitioner get his suitable neurology examination conducted, is inclined to grant the interim bail on medical grounds."

11. Having regard to the above facts and circumstances, we are of the view that by giving an opportunity to the appellant to have an effective medical treatment as pleaded, no prejudice will be caused to the prosecution. Hence, the appellant can be granted bail on medical ground as prayed, without going into the merits of the case, subject to conditions. Accordingly the following:-

ORDER

i) The appeal is ***allowed***.

ii) The appellant is directed to be released on bail, subject to executing a bond in a sum of Rs.1,00,000/-

(Rupees One Lakh only) with a surety for the likesum to the satisfaction of the jurisdictional Court.

iii) He shall furnish proof of his residential address.

iv) He shall undertake to appear before the trial Court on or before the expiry of 60 days from the date of his release.

v) He shall provide the details of medical treatment availed by him, to the Court, on the date of his surrender.

vi) He shall not involve in criminal activities.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE

LDC
List No.: 1 Sl No.: 13