



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 717 OF 2026 (21(NIA))

BETWEEN:

MR. A.K. ASHRAF @ ASHRAF
AGED ABOUT 39 YEARS,
S/O ABDUL RAHMAN,
R/O NO.3/191, M.P. ROAD,
JOKATTE, TOKURU VILLAGE,
MANGALURU TALUK,
DAKSHINA KANNADA DISTRICT-575 030.

...APPELLANT

(BY SMT. SIDDIKA AISHA, ADVOCATE FOR
SRI. RAHAMATHULLA KOTHWAL, ADVOCATE (P/H))

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 SwOUDHA,
BENGALURU-560 001.

...RESPONDENT

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

THIS CRL.A IS FILED U/S 21(4) OF THE NIA ACT 2008,
PRAYING TO: (A) CALL FOR ENTIRE RECORDS IN SPL.C.NO.744



OF 2023 PENDING ON THE FILE OF THE XLIX ADDL. CITY CIVIL & SESSIONS JUDGE-CUM-SPECIAL COURT FOR NIA CASES, BENGALURU; (B) ALLOW THIS CRIMINAL APPEAL AND SET ASIDE THE ORDER DATED 09.04.2026 PASSED BY THE XLIX ADDL. CITY CIVIL AND SESSIONS JUDGE, (SPECIAL COURT FOR TRIAL OF NIA CASES), (CCH-50) AT BENGALURU IN SPL.C.NO.744/2023 VIDE ANNEXURE-A AND ENLARGE THE APPELLANT/ACCUSED NO.11 ON BAIL IN SPL.C.NO.744/2023 PENDING IN THE COURT OF THE XLIX ADDL. CITY CIVIL AND SESSIONS JUDGE (SPECIAL COURT FOR TRIAL OF NIA CASES), (CCH-50) AT BENGALURU FOR OFFENCES PUNISHABLE UNDER SECTIONS 153A, 120B OF IPC, AND SECTION 13, 18, 18A, 22B OF UNLAWFUL ACTIVITIES (PREVENTION) ACT (UAPA).

THIS APPEAL, COMING ON FOR ORDERS, 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 filed under Section 21(4) of the National Investigation Agency Act, 2008 ('NIA Act' for short) r/w Section 439 of Cr.P.C., 1973, seeking to set aside the order dated 09.04.2026 passed by the Court of XLIX Additional City Civil and Session Judge, (Special Court for trial of NIA cases) (CCH-50), Bengaluru in



Spl.C.No.744/2023 and consequently to enlarge the appellant on bail.

2. We have heard the learned counsel Smt.Siddika Aisha, Advocate appearing for Sri Rahamathulla Kothwal for appellant, learned Special Public Prosecutor for respondent/NIA and perused the material on record.

3. The respondent/NIA has filed charge sheet for the offences punishable under Sections 153A, 120B of IPC and Sections 13, 18, 18A, 22B of the Unlawful Activities (Prevention) Act, 1967 ('UA (P) Act' for short). Amongst the charge sheeted accused, 9 accused including 2 absconding accused are charged under the UA (P) Act, including the appellant, arraigned as accused No.11. It is not in dispute that appellant's bail applications were rejected by the trial Court on merits. However, the instant application before the trial Court was filed on medical grounds, which came to be rejected by the impugned order dated 09.04.2026.



4. It is submitted that the appellant is suffering from severe health ailments and rheumatic heart disease. As per his medical records, there are no resting regional wall motion abnormalities. His cardiac function has significantly deteriorated over time. The left ventricular ejection fraction (LVEF), which was 62% two years ago, has now reduced to 47% indicating a decline in heart pumping efficiency and overall cardiac performance. Considering the deteriorating health condition, he was taken to Sri Jayadeva Institute of Cardiovascular Sciences and Research, where he underwent detailed cardiac evaluation and upon examination, the doctors have confirmed and affirmed the diagnosis of rheumatic heart disease with moderate mitral regurgitation, along with noted reduction in left ventricular ejection fraction (LVEF) to 47%.

5. The Learned counsel for appellant would contend that the continued detention of the appellant in the present medical condition poses a serious threat to his



life and health. The absence of proper and immediate medical care may lead to further deterioration and irreversible complications and he requires periodic cardiac evaluation, medication and specialized treatment with continuous medical supervision, which cannot be effectively ensured while in custody.

6. The learned counsel for the appellant would also contend that the denial of adequate medical care to the appellant would amount to violation of his fundamental right to life under Article 21 of the Constitution of India. She submits that the appellant undertakes to abide by the conditions that may be imposed by the Court and therefore, for a limited period, he may be enlarged on bail. She contends that considering the case of appellant for an interim bail for a limited period would not prejudice the prosecution if he is released on conditional bail.

7. The learned Special Public Prosecutor has filed statement of objections opposing the prayer for bail.



Placing reliance on the observations made by the Special Court, the learned Special Public Prosecutor contended that the Central Prison, Parappana Agrahara, Bengaluru is equipped with sufficient medical facilities and staff to cater to the needs of inmates and provide medical assistance. In the event, the medical issue cannot be treated at the Central Prison, then the Government Hospitals such as Sri Jayadeva Institute of Cardiovascular Sciences and Research, Victoria Hospital and Bowring Hospital have specialized wings for the treatment of prisoners/under trials. The said hospitals are equipped with medical facilities and equipment to cater to all the needs, including surgical interventions.

8. Learned Special Public Prosecutor further contended that the appellant has already been treated at Sri Jayadeva Institute of Cardiovascular Sciences and Research for cardiac evaluation and his medical condition can be adequately treated in the said hospital and the



prison system is fully capable of facilitating specialized medical treatment without necessitating release on bail.

9. The Special Court accepting the contention of the learned Special Public Prosecutor that the prison system is fully capable of facilitating specialized medical treatment without necessitating release of the appellant on bail, has rejected the bail application of the appellant on medical grounds. Further, it is also observed that the appellant is charged under Chapters IV and VI of the UA (P) Act which are punishable upto life imprisonment and therefore, the rigor under Section 43D (5) of the UA (P) Act is squarely attracted in the present case. The rejection of the earlier bail applications on merits was also taken into consideration, to hold that the said applications were rejected holding that there are reasonable grounds for believing that the accusation made against the appellant is prima facie true and this Court has rejected the bail application of accused No.8, against whom the provisions under the UA (P) Act are invoked.



10. We are conscious of the fact that against the appellant, the provisions under the UA (P) Act along with IPC offences are invoked in the charge sheet. His bail applications are rejected by the trial Court on merits. However, the instant application filed by the appellant is on medical grounds. Wherein, it is stated that he is suffering from Rheumatic heart disease with moderate mitral regurgitation. His cardiac function has significantly deteriorated over time and the left ventricular ejection fraction (LVEF) which was 62% two years ago has now reduced to 47% indicating a decline in heart pumping efficiency and overall cardiac performance.

11. Considering the submission of the learned counsel for appellant, we called for the medical report of the appellant from the Chief Medical Officer, Central Prison, Bengaluru. The contents of the report dated 28.04.2026 reads as under:

*"On 22-11-2022, 07-12-2022, 20-12-2022,
02-06-2023, 13-06-2023, 27-06-2023, 10-08-*



2023, 19-08-2023, 23-08-2023, 27-10-2023, 04-11-2023 He was referred to Govt. Dental College Hospital for complain of toothache and treated appropriately.

On 15-06-2024, He was referred to Victoria Hospital for complain of abdomen pain, was advised medications and investigations.

- *USG Abdomen - Grade I Hepatic Steatosis.*
- *ECHO:*
 - *Rheumatic Heart Disease*
 - *Moderated Mitral Regurgitation*
 - *No resting reginal wall motion abnormalities*
 - *Normal Biventricular function, LVEF:61%*
 - *No Pericardial effusion/clot/vegetation*
- *CECT scan Abdomen: Grade I Prostatomegaly*

On 17-03-2026, He was referred to Sri Jayadeva Institute of Cardiovascular Sciences & Research Hospital for complain of occasional chest



pain and was advised medications and 2D ECHO which reports of

- *Dilated left sided chambers*
- *Mildly reduced LV global function (EF:47%)*
- *Moderate Mitral Regurgitation (RHD)*
- *No obvious clot*
- *Dated on 23/04/2026 visited SJIC advised medical management at present, in case of severity of MR-may require surgery in future and regular follow up and long term treatment.*

IMPRESSION: Currently, He is suffering from Grade I Hepatic Steatosis, Grade I Prostatomegaly, RHD- Rheumatic Heart Disease (Rheumatic heart disease is a condition where the heart valves have been permanently damaged by rheumatic fever) on treatment. Dated on 23/04/2026 visited SJIC advised medical management at present, in case of severity of MR-may require surgery in future and regular follow up and long term treatment."



12. The learned counsel for appellant has placed reliance on the following para of a decision of the Delhi High Court in ***Vijay Agarwal v. Director of Enforcement in Bail Application No.1762/2022 and Crl.MA.No.11556/2022.***

"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."

13. Having perused the medical records pertaining to the appellant, we are of the considered view that by releasing the appellant on medical grounds, for a limited period by imposing necessary conditions, would not prejudice the prosecution. Hence, the following:

ORDER

- i) Appeal is ***allowed***.
- ii) Order dated 09.04.2026 passed in Spl.C.No.744/2023 on the file of the Court of XLIX Additional City Civil and Sessions Judge, (Special Judge for



Trial of NIA Cases), (CCH-50), Bengaluru, is hereby set aside.

iii) Appellant/accused No.11 is ordered to be released on bail for a period of 6 weeks on the following conditions:

a) He 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.

b) He shall furnish proof of his residential address.

c) He shall surrender before the trial Court on or before the expiry of 6 (six) weeks from the date of his release.

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



e) He shall not tamper with the
prosecution witnesses.

f) He shall not involve in criminal
activities.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE