



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 8<sup>TH</sup> DAY OF JUNE, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ**

**AND**

**THE HON'BLE MR. JUSTICE G BASAVARAJA**

**CRIMINAL APPEAL NO. 822 OF 2026 (21(NIA))**

**BETWEEN:**

MR ZAKIAR A @ ZAKIR  
S/O HANEEF,  
AGED ABOUT 33 YEARS,  
R/AT 1-168, ATHIKERE HOUSE AND VILLAGE,  
PUTTUR TALUK, SAVANOOR,  
DAKSHINA KANNADA - 574 201

...APPELLANT

(BY SRI. TAHIR.,ADVOCATE)

**AND:**

NATIONAL INVESTIGATION AGENCY,  
MINISTRY OF HOME AFFAIRS,  
BRANCH OFFICE, BENGALURU,  
NO 3<sup>RD</sup> FLOOR, BSNL TELEPHONE EXCHANGE,  
HAL 2<sup>ND</sup> STAGE, INDIRANAGAR  
BANGALORE - 560 008  
REPRESENTED BY ITS SUPERINTENDENT OF POLICE.

...RESPONDENT

(BY SRI. PRASANNA KUMAR P., ADVOCATE)

THIS CRL.A IS FILED U/S 21(4) NIA PRAYING TO A. SET  
ASIDE THE IMPUGNED ORDER DATED 22.04.2026 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.123/2023 ANNEXED AS  
ANNEXURE-A.

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 G BASAVARAJA

**ORAL JUDGMENT**

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

Interim bail application filed by the appellant/accused  
No.18, under Section 439(1) of Cr.P.C., to release him on  
medical grounds has been rejected by the Special Court.  
The said order is assailed in this appeal preferred under  
Section 21(4) of NIA Act, 2008.

2. Heard the learned counsel for appellant, learned  
Special Public Prosecutor for respondent/NIA and perused  
the material on record.



3. Learned Special Public Prosecutor has filed statements of objection opposing the prayer made in the appeal.

4. FIR was registered for the offence punishable under Section 302 read with Section 34 of IPC in Crime No.63/2022 of Bellare Police Station, Dakshina Kannada.

5. Investigation was taken over by the NIA and Section 120B of IPC and Section 16 and 18 of the U.A.(P) Act were invoked, during the course of investigation. Charge sheet is filed on completion of investigation against 28 accused persons wherein, the appellant is arraigned as accused No.18. He was arrested on 27.07.2022 and in custody since then.

6. The Appellant preferred an application before the Special Court to enlarge him on bail on the ground that he is suffering from kidney ailments, which is causing severe abdominal pain, nausea, vomiting and internal discomfort and despite the request made to refer the



appellant to specialized hospital, the said request was not considered.

7. The Special Court vide impugned order has rejected the prayer on the ground the appellant was admitted to SIMS McGann Hospital, Shivamogga on 01.04.2026, and he was discharged on 03.04.2026 with conservative management at stable condition. Further, that the offences alleged are grave and serious in nature and in view of the invocation of the provisions under the U.A.(P) Act, there is a bar under Section 43D(5) of the said Act to grant bail on any ground. It is further observed that the earlier bail application filed by him was also rejected holding that there are reasonable grounds for believing that the accusation made against him is *prima-facie* true.

8. The learned Spl.PP contended that the offences alleged against the appellant are grave and serious in nature and in view of *prima-facie* case and bar under Section 43D(5) of the U.A.(P) Act, the Special Court has



rightly rejected the prayer for bail. He further contended that appellant has received consistent medical attention while in judicial custody and he was admitted as an inpatient at SIMS McGann Hospital from 01.04.2026 to 03.04.2026 for abdominal pain and urinary distress and stabilized *via* conservative management. It is contended that the appellant has been extensively treated at Central Prison Hospital, SIMS McGann Hospital and NIMHANS, Bengaluru and the appellant's contention of medical neglect is contradicted by the materials on record and his plea for interim bail on the said ground lacks merit.

9. As the prayer of appellant for interim bail is on medical ground, we are not delving into the merits of the case at this stage.

10. The learned counsel for the appellant contended that the right to health is an integral component of the right to life guaranteed under Article 21 of the Constitution of India and the prison authorities have a constitutional obligation to ensure that persons in their custody receive



adequate medical care. This obligation does not yield to statutory restrictions on bail, the right to medical treatment is absolute and cannot be subject to any of the limitations contained in special criminal statutes.

11. Learned counsel relied on a decision of the Delhi High Court in '**Vijay Agrawal V/s. Directorate of Enforcement**', (Bail Application No.1762/2022 dated 29.05.2023) the relevant paragraph is extracted here under:-

"(a)However serious the offence may be, the health condition of a human being is paramount. Custody during investigation is not punitive. (b) Every person has the right to be adequately and effectively medically treated. Article 21 guarantees not just the right to live, but the right to live with dignity. (c) A person in custody suffering from a serious ailment should be given the opportunity to have adequate and effective medical treatment. (d) The discretion to grant interim bail on medical grounds need not be exercised only when the person is on the brink of death courts must act before the irreversible stage is reached."

12. A perusal of the impugned order goes to show that one of the grounds on which the prayer for medical bail was rejected was that as per the medical report, the appellant was shown to have been discharged in stable condition on 03.04.2026. It is contended by the learned counsel for the appellant that the said finding is legally untenable as the 'discharged in his stable condition' under



the conservative management means only that patient was safe to leave hospital on that day and it empathetically does not mean the underlined medical condition has been cured, resolved or adequately treated. There is some force in the said argument advanced by the learned counsel.

13. The materials on record reveal that the appellant was referred to NIMHANS even earlier and on 11.12.2022, the NIMHANS diagnosed that it is a case of 'Right Hemiparaesis under evaluation, medically unexplained at present'. Further, between 06.02.2025 and 11.08.2025 he was treated conservatively at Central Prison Hospital, Shivamogga for vomiting, headache, fever, chills, myalgia, cold cough and viral fever respectively. Again between 22.02.2025 and 31.03.2026 he was treated on OPD basis, conservatively at SIMS McGann Hospital, Shivamogga for H/o fever, cough since 15 days, undergone CT scan of brain (plain) for headache since 3 motnhs, CT scan of brain (plain) impression. It is



stated that no significant abnormality detected, left side eye blurred vision, pain right limb radiating back and H/o vomiting, USG abdomen reports - right hydronephrosis, undergone CT scan of KUB (plain) Impression: Mild hydrouteronephrosis is noted in the right side secondary to VUJ calculus of size 4\*3mm(HU 678). Few right renal calculi are noted largest size of 5\*3mm (HU877) those noted at upper pole. Mild fat standing noted around right kidney and ureter? Pyelonephritis, severe pain in right side abdomen region, and he was treated with pain killers (analgesics) respectively. On 01.04.2026 he was admitted to SIMS McGann Hospital, Shivamogga for pain of abdomen since four days, difficult to pass urine since one day and he was discharged on 03.04.2026 with conservative management at stable condition, and now patient is being discharged in stable condition. However, it appears once again, on 07.04.2026 he was treated conservatively at Central Prison, Hospital, Shivamogga for pain abdomen and on 09.04.2026 in SIMS McGann



Hospital, Shivamogga as OPD patient treated conservatively for vomiting.

14. Learned counsel for appellant would submit that the chief Medical Officer's report cannot be treated as independent or satisfactory assessment of the adequacy of treatment. The medial records reveal pattern of escalatory severity remain as pain management for a kidney stone has now progressed to VUJ calculus causing obstructive uropathy with infection (pyelonephritis) etc. Therefore, he submitted that necessary surgical intervention is required which has not been done despite repeated diagnosis in the jail hospital.

15. Having perused the medical records pertaining to the appellant and as the appellant is intending to get the surgery done in a private hospital, no prejudice will be caused to the prosecution, if the appellant is enlarged on bail for a limited period on medical grounds, imposing appropriate conditions. Hence, the following:-



### **ORDER**

The order dated 22.04.2026 passed by the XLIX Additional City Civil and Sessions Judge, (Special Court for the Trial of NIA Cases), (CCH-50), Bengaluru, in Spl.C.No.123/2023 is ***set aside***.

The appellant is ordered to be released on bail subject to following conditions:-

- i) He shall execute personal bond in a sum of Rs.1,00,000/- (Rupees One Lakh only) and furnish two sureties in the likesum to the satisfaction of the trial Court;
- ii) He shall not indulge in any criminal activities;
- iii) He shall not tamper with the evidence / witnesses;
- iv) He shall furnish his residential address proof during the interim bail period;
- v) He shall not leave the jurisdiction of Country during the interim bail period;



- vi) He shall submit his medical reports to the trial Court,  
on his surrender;
- vii) He shall appear before the Court whenever required  
physically/virtually; and
- viii) He shall surrender before the Trial Court on expiry of  
60 days or on or before 61<sup>st</sup> day of his release.

Registry shall communicate this order to the  
concerned jail authority.

**Sd/-  
(MOHAMMAD NAWAZ)  
JUDGE**

**Sd/-  
(G BASAVARAJA)  
JUDGE**

LDC  
List No.: 1 Sl No.: 13