

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1552 OF 2016

Kaluram Choudhary vs. Union of India and anr.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Anil G. Lalla with Ms. Beerta Bhajwa, Ms. Monika Malkani i/by Lalla & Lalla for the Applicant.
Ms. Rebacca Gonsalvez for Respondent No.1.
Smt. J.S. Lohokare, APP. for the State.

CORAM :A.S.GADKARI, J.

DATE : 20th September, 2016

P.C.

1. This is an application for temporary bail on the ground that the daughter of the applicant is under going left knee surgery at Balaji Hospital, Bhayander (E), District Thane.

2. The applicant is an accused in NDPS Special Case No.28/2016 pending on the file of Special Judge, (NDPS), Greater Bombay. The applicant has stated in the application that his daughter namely Sonal has been advised to under go left knee surgery for removal of the metal plate and the same is scheduled on 26.9.2016. The concerned hospital has issued a certificate to that effect. The applicant has

affirmed an affidavit dated 16.9.2016 and has annexed the photo copy of the certificate issued by the Balaji Hospital and the receipt of deposit of amount of Rs.25,000/- in the said hospital.

The learned Special PP on instructions from the concerned officer of the NCB submitted that the officers of NCB have verified the said fact and the said certificate and receipt dated 15.9.2016 are genuine documents. The Officers of NCB have also verified the said fact from the concerned doctor which is found to be true. However, the learned Special PP vehemently opposed the application on the ground that the age of the daughter of the applicant is about 15 years. The wife of the applicant and the mother of the said daughter is competent enough to take her care and the Doctor has stated that the presence of the applicant is not at all necessary at the time of performance of the said surgery. She further submitted that under the guise of attending the said surgery, the applicant wants to come out of the Jail for certain period. She therefore, submitted that the application may be dismissed.

3. The learned counsel for the applicant submitted that the daughter of the applicant is suffering from Cerebral Palsy and mental retardation(CPMR) and therefore, the presence of the applicant is necessary not only to take her care but also to arrange for the funds for the said surgery and the post surgery medication.

4. In view of the fact that the daughter of the applicant is suffering from Cerebral Palsy and mental retardation and he is required to arrange the funds not only for the surgery but also for the post surgery medication, it is necessary on humanitarian grounds to release the applicant on bail for a stipulated period. As far as the apprehension of the prosecution agency that the applicant may flee away from the ends of justice is concerned the said apprehension can be taken care of by releasing the applicant on bail in police escort. It is needless to mention that the applicant will have to bear the necessary legal expenses of the said police escort.

5. Hence, the following order.

a) The applicant be released on bail in Special Case No.28 of 2016 pending on the file of Special Court (NDPS), Thane from 11.00 a.m. of 24.9.2016 till 5.00 p.m. of 29.9.2016.

b) The applicant shall surrender himself to the Jail authorities on or before 5.00 p.m. of 29.9.2016.

c) The applicant shall be released from Jail on temporary bail on the afore stated dates in police escort. The police escort party shall be in plain clothes.

d) The concerned Jail authority to provide necessary escort to his residence and also at Balaji Hospital, Bhayander, District Thane and the concerned escort shall bring back the applicant to the Jail on or before 5.00p.m. of 29.9.2016.

- e) Before his release from Jail the applicant shall deposit necessary escort charges in advance to the Jail authorities.
- f) After his surrender to jail the applicant shall pay the deficit escort charges, if any, without excuse.
- g) While on bail the applicant shall not tamper with the evidence and/or influence prosecution witnesses.
- h) Application is allowed in the aforesaid terms.
- i) All the concerned to act on a copy of this order duly authenticated by the registry of this Court.

(A.S.GADKARI, J.)