

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.2300 of 2016

D.Anand .. Petitioner

Vs

1.State represented by
The Inspector of Police,
E-1 Police Station,
Chennai-600 004.

2.The Superintendent of Police,
Central Prison-I,
Puzhal,
Chennai-600 066.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, seeking direction to the second respondent to permit the petitioner's father P.Dharamchand (Convict Prisoner No.6322) to be admitted in a private hospital (Sampat Nursing Home), for surgery with his cost and continue his further treatment.

For Petitioner : Mr.N.R.Iango, SC
for Mr.R.Vivekananthan

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor
for RR1 and 2

ORDER

[Order of the Court was made by S.BASKARAN, J.]

The petitioner has come forward with this petition, seeking permission to treat the detenu, namely P.Dharamchand, who is undergoing imprisonment in the Central Prison-I, Puzhal, Chennai, at a private hospital, namely, Sampat Nursing Home, at his cost.

2 The learned Additional Public Prosecutor has filed a counter affidavit, opposing the petition. However, in the report of the Medical Officer, Central Prison-I, Puzhal, Chennai, in respect of the detenu P.Dharamchand, it has been stated as follows :

"Impression :

Hypertrophic nonunion of left radius with mal union of left Ulna

Septic nonunion

In view of the septic nonunion of left radius and mal union of left Ulna, he is advised surgical management.

Patient may be referred to higher institution for surgery."

At the end of the report, it has also been advised that "Open reclusion and refixation with long plate bone rafting". From the above medical report, it is evident that the detenu is in need of surgery.

3 The learned counsel appearing on behalf of the petitioner has also filed a Medical Certificate issued by the Sampat Nursing Home, dated 3.11.2016, stating that the patient P.Dharamchand should be admitted in the hospital on 9.11.2016 and the operation will be conducted on 17.11.2016. It has been further stated that post operation, he should remain in the hospital for two to three weeks. In the medical certificate, it has been stated as follows:

"Impression: As per reports of Govt. Royapettah Hospital and other institutions, and medical report of the RMO Puzhal Central Prison - I, diagnosed with severe pain, swelling in left forearm due to alleged fall with bony tenderness, abnormal mobility, x-ray showing malunited ulna and non-union radius with implant failure with bursitis, advised by other Govt. hospitals ORIF radius with bone grafting and ulna deformity correction, suggested emergent surgery with open reduction of Radius with 7 hole plate and Ulnar proximal and distal fracture fixed separately with 2, 8 hole plate closed in layers to be done to alleviate the pain and to remove the pus due to infection and inflammation."

The learned counsel also represented that the detenu Dharamchand was earlier treated by the same Doctor in the same hospital.

4 It is clear from the Medical certificate issued by the Sampat Nursing Home, dated 3.11.2016, that the detenu is in need of surgery.

5 In such circumstances, considering the above said factors and the physical condition of the detenu, which is clearly mentioned, not only in the medical certificate issued by the private nursing home, but also in the report of the Medical Officer, Central Prison-I, Puzhal, Chennai, dated 30.8.2016, there is an urgent need to permit the detenu P.Dharamchand to have a special treatment at the Sampat Nursing Home, Chennai.

6. In view of the aforesaid circumstances, we pass the following order:

(a) The detenu, namely, P.Dharamchand, son of Pannalal, who is now confined at the Central Prison-I, Puzhal, Chennai, is permitted to go for the surgery, at his cost, in the Sampat Nursing Home, Mylapore, Chennai. For that purpose, he is granted permission from 09.11.2016 for a period of three weeks.

(b) The Superintendent of Central Prison-I, Puzhal, Chennai, is hereby directed to pass appropriate orders, granting him permission, as aforesaid, for the purpose of undergoing a surgery and treatment.

(c) The Jail Authorities are directed to release the detenu, namely, P.Dharamchand, son of Pannalal, on production of this order.

(d) It is made clear that the detenu should be brought back to the Central Prison, Puzhal, Chennai, after a period of three weeks, from 9.11.2016, without fail.

(e) The Jail Authorities, during the said period, shall provide proper escort to the detenu in order to ensure the safety and security of the detenu, round the clock. They shall also impose suitable conditions to that effect. The expenses of the escort shall be borne by the petitioner.

(f) The detenu should also abide by the conditions to be imposed by the authorities concerned.

(g) The private hospital authorities, namely Sampat nursing Home, is directed to permit the police escort to be present along with the detenu, at the hospital, round the clock.

7. The Habeas Corpus Petition is ordered in the above terms.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector of Police,
E-1 Police Station,
Chennai-600 004.
- 2.The Superintendent of Police,
Central Prison-I, (will copies induplicate for commuaication
the accused.
Puzhal, Chennai-600 066.
- 3 The Secretary to Government Home Prohibition and Excise
Department, Fort St. George, Chennai 9
- 4 The Joint Secretary to Government Public (Law & Order)
Fort Saint George, Chennai 9
- 5.The Public Prosecutor,
High Court, Madras.
- 6 The Authorised Signatory
Sampat Nursing Home
4 & 5, Nachiappa Street,
Mylapore, Chennai 600 004

+2 CC R. Vivekananthan, Advocate Sr.No.63198 (07/01/2016)

UG(CO)
md(04/11/2016)

H.C.P.No.2300 of 2016

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