

Raj Kumar Vs. Union of India & Others

Present: Mr. Vijay Kumar Aggarwal, Advocate
for applicant-respondent No.11.

Ms. Isha Goyal, Advocate
for the petitioner.

Mr. Manjri Nehru Kaul, Addl.A.G., Punjab.

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CRM-W-166-2016

Heard counsel for the applicant/respondent No.11, learned counsel for the writ petitioner and learned Addl.A.G., Punjab.

This is an application seeking exemption from filing certified copies of the Annexures which are nothing but the medical records and also to place on record the above documents as Annexures.

For the reasons set out in the application and also in the interest of justice, the application is allowed and the applicant/respondent No.11 is permitted to place on record the above Annexures subject to all just exceptions.

CRM-W-167-2016

This is an application filed by respondent No.11 Nirmal Singh Bhangoo seeking a direction not to arrest him on account of his poor medical condition and also to grant him interim bail in the event of custodial interrogation/arrest of the applicant to avail medical treatment.

We heard the submissions made by learned counsel appearing for the applicant/respondent No.11, learned counsel for the writ petitioner and learned Addl.A.G., Punjab.

Considering the serious allegations made against the applicant and others, we directed the SHO Police Station, Bathinda Cantonment by virtue of our order dated 28.05.2016 to go through the copy of the complaint submitted by the writ petitioner and register a case forthwith in terms of the guidelines laid down by the Hon'ble Supreme Court in **Lalita Kumari vs. Government of U.P. and others (2014) 2 SCC 1**, if he found that cognizable offence was made out in the complaint and conduct a fair investigation.

Learned Addl.A.G., Punjab submitted that respondent No.5 has proposed to arrest and undertake the custodial interrogation of the applicant/respondent No.11 in view of the enormity of the offences allegedly committed. She also submitted that during the course of custodial interrogation, respondent No.5, SHO Police Station, Bathinda Cantonment would provide the best of medical treatment at Bathinda.

Learned counsel appearing for the applicant/respondent No.11 drew our attention to the medical status report submitted by Senior Medical Officer attached to Central Jail No.8/9, Tihar, New Dehi-64 to the Superintendent of said Jail, wherein it has been categorically disclosed that the applicant/respondent No.11 was a diagnosed case of diabetes, hypertension with history of post kidney transplant, prostatemegaly (B.H.P.) and back pain. He was under regular follow-up. He was sent to DDUH (Emergency Deptt.) on 3.2.2016 for uncontrolled diabetes, hypertension and urinary difficulty micturation. Learned counsel for the applicant/respondent No.11 further submitted that on account of deteriorating health condition of the applicant, he be allowed to take treatment at private hospital, in or around Chandigarh, like

Fortis Hospital, Mohali at his own expense.

Now the fact remains that the 5th respondent, having found that cognizable offences have been made out in the complaint, registered a criminal case against the applicant and others. As submitted by learned counsel for the applicant/respondent No.11, there is a patent deterioration in the health condition of the applicant/respondent No.11. Therefore, respondent No.5, SHO Police Station, Bathinda Cantonment is under the lawful obligation to complete the above exercise proposed to be undertaken by him before the next date of hearing as otherwise, the investigating agency would lose forever the most important incriminating materials that could be collected by subjecting the applicant under custodial interrogation.

During the course of custodial interrogation, respondent No.5 shall give best of medical treatment to the applicant/respondent No.11, taking into account his precarious medical condition. The moment the custodial interrogation is over, the applicant/respondent No.11 be permitted to take treatment under custody at private hospital like Fortis Hospital located in or around Chandigarh at his own expense, in view of his deteriorating health profile.

Under the above circumstances, the plea for a direction not to arrest the applicant/respondent No.11 stands rejected, as respondent No.5 has to collect incriminating materials to substantiate the serious charges levelled in the complaint. Post the matter for considering the second limb of the prayer in the application on 13.6.2016 before the Vacation Court. In the meantime, reply, if any, be filed by the petitioner and the State.

**CRM-W-166-167-2016 &
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CRWP-729-2016

Post the matter alongwith CRM-W-167-2016 on 13.6.2016
before the Vacation Court.

**(M. JEYAPPAUL)
JUDGE**

June 2, 2016
Gulati

**(RAJ MOHAN SINGH)
JUDGE**