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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.1812 OF 2017

Saurabh Baban Khopade

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.V.K.Rathod, for the Applicant.

Ms.J.S.Lohakare, A.P.P for the Respondent-State.

API – Bansode, Dharavi Police Station.

PI – Gharate (LA II).

CORAM : REVATI MOHITE DERE, J.

DATE : 23rd AUGUST, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks temporary bail to enable him to undergo medical treatment for Tuberculosis.

3. Perused the papers. The applicant was arrested in connection with C.R.No.326 of 2015, registered with the Bhandup Police Station, for the alleged offences punishable under Sections 143, 144, 146, 147, 148, 149, 120B, 302, 452, 427, 506(2) of the Indian Penal Code and under Sections 4 and 27 of the Arms Act and under Section 37(1)(a) r/w Section 135 of the Maharashtra Police Act.

4. It is recorded in the order dated 18th August, 2017, that after arguing for some time, the learned counsel for the applicant does not press this application on merits and that the applicant only presses for prayer clause (B) for temporary bail, as the applicant is suffering from Pulmonary Tuberculosis. Learned APP had tendered the medical report of the applicant, which was taken on record, which shows that the applicant was diagnosed with Pulmonary Tuberculosis; that the applicant had fever with weight loss and loss of appetite and his body weight was below normal limits according to his body mass index and age factor. It is also mentioned in the said report, which was tendered on 18th August, 2017, that although the applicant was referred to Sir J.J.Hospital, Mumbai on several dates, due to non-availability of police guards, he could not be taken on the said dates.

Considering the medical report of the applicant, certain directions were given to the Superintendent of Talaja Central Prison as well as the Assistant Commissioner of Police, Naigaon Head Quarter, to ensure that the applicant is taken forthwith to Sir J.J.Hospital, Mumbai. A report of the concerned Doctor was also called.

5. Learned APP has today tendered a report of the Superintendent, Talaja Central Prison, Navi Mumbai, stating that the applicant is admitted as an indoor patient in Sir J.J.Hospital, Mumbai and is undergoing treatment. It appears that the applicant was taken to the hospital on 19th August, 2017, at 9.50 p.m., and was examined by the doctor. It was advised to start with Anti-Koch's Treatment under the Revised Nation Tuberculosis Control Program (RNTCP) and was sent back to the prison. It appears that again the applicant was referred to Sir J.J.Hospital, Mumbai on 21st August, 2017, and that the applicant is presently admitted in the hospital, as an indoor patient.

6. Learned Counsel for the applicant submits that the condition of the applicant is such that he requires continuous monitoring and proper

diet, which can only be given by the family. He submitted that the parents of the applicant are not even allowed to meet the applicant, who is an indoor patient. It is not in dispute that the applicant's physical condition is not good and that he is suffering from Pulmonary Tuberculosis and that his weight is below normal limits and that he needs proper diet and looking after.

7. Considering the condition of the applicant, the applicant is granted temporary bail for a period of three months, on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on temporary bail, for a period of 3 months, on furnishing P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;
- ii) The applicant shall not enter the jurisdiction of Bhandup Police Station, during the aforesaid period;

iii) The Applicant shall surrender after the aforesaid period of three months is over;

iv) The Applicant shall inform his latest place of residence, where he will be residing during the aforesaid period and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Investigating Officer/Police Station, in writing;

v) The Applicant shall not seek any adjournment in the trial Court on the ground that he is admitted in the hospital;

vi) The Applicant shall co-operate in the conduct of the trial and attend the trial Court, on every date of the hearing, except in exceptional circumstances.

8. The Application is allowed and disposed of in above terms.

9. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)