

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.289 OF 2018

IN

CRIMINAL APPEAL NO.22 OF 2017

Vishnu Bhaskar Mantri ... **Applicant**

V/s.

Union of India & Anr. ... **Respondents**

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Mr.Shivprasad R. Page, Advocate for the Applicant.

Mr.Sandesh S. Patil, Advocate for the Respondent/CBI.

Mr.Prashant Jadhav, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 16th APRIL 2018.

P.C. :

1 The applicant along with co-accused has been convicted of offences punishable under Sections 120-B, 409, 420, 465, 467, 468, 471 of the Indian Penal Code as well as under Section 13(2) of the Prevention of Corruption Act, 1988 by the learned Special Court in Special (CBI) Case No.74 of 2004. Maximum sentence imposed on him is for five years. The applicant was a public servant serving as a Manager with the State Bank of India. His application for suspension of sentence and

releasing him on bail came to be rejected by this Court vide Order dated 14th February 2017. Now, this is third application by the applicant/accused for suspension of the sentence and releasing him on bail on medical ground.

2 After rejection of bail application of the applicant on merit, by this Court, he preferred another application bearing No.898 of 2017 for releasing him on bail on medical grounds. That application came to be allowed by this Court (Revati Mohite Dere, J.) vide Order dated 11th July 2017 with the following Order:

“4 In the particular facts of the case and considering the medical condition of the applicant, which is undisputed, the applicant is granted temporary bail for a period of four months to enable him to take treatment at a hospital of his choice. Accordingly, the application is allowed the applicant is granted temporary bail for four month, on the following terms and conditions :

- (i) In the event of arrest, the applicant be released on cash bail in the sum of Rs.10,000/-, for a period of three weeks. The applicant shall thereafter furnish P.R. Bond of Rs.10,000/- with one or two sureties in the like amount, within a period of three weeks of his release on cash bail.”

3 Both the learned Advocates appearing for the parties are unanimous in stating that in fact, by this Order, the applicant, who was undergoing jail sentence sentence after rejection of his application for suspension of sentence and bail, came to be released on medical grounds for four months.

4 Thereafter, the applicant moved another Criminal Application No.1491 of 2017 for extension of bail and vide Order dated 10th November 2017 extended the temporary bail (Mrs.Anuja Prabhudessai, J.) till next date. On 30th November 2017, again extension to bail Order was granted till next date of hearing. Ultimately, by Order dated 25th January 2018, this Court was pleased to dispose of the said application for extension of temporary bail by recording the statement of the learned Advocate appearing for the applicant that the bail be extended for a period of one month and then, the applicant will surrender before the jail authority.

5 That is how the instant application came to be moved with a further prayer for extension/grant of bail on medical grounds.

6 Heard the learned Advocate appearing for the applicant/accused. He argued that the applicant was admitted in the Intensive Care Unit of Ashirwad Critical Care Hospital from

19/02/2018 and ultimately, he was discharged on 18/03/2018. The learned Advocate further argued that papers of medical treatment of the applicant placed on record shows that the applicant is still suffering from ailment and his one eye has been operated for cataract and another surgery is scheduled. Therefore, in submissions of the learned Advocate for the applicant, the applicant needs to be released on bail.

7 I have also heard the learned Advocate appearing for the prosecuting agency i.e. CBI. He submitted that operation for removing the cataract on one eye of the applicant can be performed in jail and by drawing my attention to the blood sugar report of the applicant dated 27/03/2018, it is submitted that blood sugar of the present applicant is within controlled limits and, therefore, he should surrender before jail authority.

8 I have carefully considered the rival submissions and also perused papers of medical treatment of the applicant produced on record as well as the reply of the prosecuting agency.

9 Undisputedly, the applicant is 71 years old suffering from severe diabetes since long. He had developed Charcot Foot because of diabetic condition and while undergoing jail sentence in July 2017 his one toe was required to be amputated because of 'Charcot Foot'. It is seen that thereafter, he was released on

temporary bail vide Order dated 11/07/2017 referred in earlier paragraph and then his two toes came to be amputated because of his diabetic condition. The applicant was then admitted in the Intensive Care Unit on 19/02/2018 i.e. after disposal of his Criminal Application No.1491 of 2017 by Order dated 25th January 2018 and came be discharged on 18/03/2018 with the following diagnosis :

“ACS/DM/HTN/IHD/Parkinson's Disease”

10 It is seen from medical papers of the applicant that for the period subsequent to his discharge efforts were made to control his blood sugar by regularly checking the same as he was to be operated for removing cataract. Ultimately, as seen from certificate of Dr.Nadkarni Eye-Care Center dated 12/04/2018, the applicant was to be operated for removal of cataract from his left eye on 14/04/2018 and surgery on his right eye was thereafter scheduled after fifteen days. The said Hospital vide this Certificate dated 12/04/20o18 annexed to additional affidavit of the applicant has certified that the applicant may require both eye's FFA and retinal laser for his diabetic retinopathy treatment protocol may extend for further period of one to one and half months. There is nothing on record to suggest that this facility of medical treatment is available with the jail hospital, nor the affidavit of the prosecuting agency explains that the prosecuting

agency will provide such type of treatment to the applicant at some Government Hospital where such treatment is available. Even otherwise, considering the health condition of this 71 year's old patient, his temporary bail was extended vide earlier Order by this Court.

11 In this view of the matter, the following Order :

- (i) The Order dated 11th July 2017 passed in Criminal Application No.898 of 2017 which was came to be continued vide Order dated 10th November 2017 as well as 30th November 2017 is further extended for a period of eight weeks.
- (ii) The application is disposed of accordingly.

(A.M.BADAR J.)