

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

CRIMINAL APPLICATION NO. 1546 OF 2017

IN

CRIMINAL APPEAL NO.20 OF 2017

Anil Laxmichand Menda ...Applicant

Versus

The State of Maharashtra and anr. ...Respondent

Mr. Viraj Kadam i/b Ganesh Dalvi for the applicant.

Mr. H.S.Venegaonkar , for CBI

Mr.Prashant Jadhav, APP for the State.

CORAM: A.M. BADAR, J.
DATED: 11th JANUARY 2018

PC:-

1. This is an application for extension of temporary bail granted by this Court to applicant Anil Menda for a period of two months. Extension of 6 months is sought by the instant application.

2. Heard the learned advocate appearing for the applicant/accused. He vehemently argued that though the Hon'ble Apex Court has disposed of the Special Leave Petition filed by the present applicant, this Court on compassionate ground can extend the period of temporary bail granted to the present applicant. The learned advocate argued that two screws are implanted in the right knee of the present applicant and he is unable to sit on the Indian Toilet. He is suffering from the problem of locking of knee. The learned advocate further argued that the applicant can be operated by his surgeon at Astha Health Care and his surgery is scheduled to be taken place on 16th January 2018 by Dr.Atul. The learned advocate further prays that the temporary bail may be extended and the applicant will surrender himself after undergoing surgery within 6 weeks.

3. Shri. Venegaonkar appearing for the prosecuting agency opposed the application by submitting that the Special Leave Petition filed by the present applicant is already

disposed of with a direction to surrender till 11.1.2018. Therefore, this Court cannot extend the time for surrendering and the applicant should first surrender and then filed appropriate application.

4. I have carefully considered the rival submissions and also perused the order granting temporary bail to the present applicant as well as relevant documents annexed to the application.

5. On 14th December 2017 this Court has passed the following order in the present application.

" It is seen that vide Order dated 16th November 2017, this Court (Coram : Smt.Anuja Prabhudesai J.) had directed the applicant/accused to appear before the committee of Doctors to be constituted by the Dean of the J.J.Hospital, Mumbai with all relevant case papers as the applicant had not undergone surgery during the period of two months for which he was temporarily bailed out by this Court. The reason was to the effect that the applicant was unfit for surgery. That is how this Court had directed the Dean of the J.J.Hospital to constitute Committee of Doctors for examination of the applicant.

2 Today, report of Medical Board has received. It is marked as Exh.'X' for the purpose of identification. The report is to the effect that the applicant/accused is fit to undergo implant removal surgery.

3 The learned Advocate for the applicant submits that he wants to surrender before the concerned jail authority within a period of two weeks from today. Statement so made is accepted.

4 Stand over to 11th January 2018"

6. This order was carried in appeal by filing SLP (Criminal No(s)....of 2017 Diary No.(S).41709 of 2017. It was heard on 22.12.2017 by the Hon'ble Apex Court and the following order is passed.

" Heard.

We do not see any ground to interfere with the impugned order. The special leave petition is accordingly dismissed.

However, time to surrender in terms of the impugned order is extended till 11.1.2018.

Pending applications, if any, shall also stand disposed of.

7. It is thus clear that the Hon'ble Apex Court has not found any infirmity in order dated 14th December 2017 and it had directed the applicant to surrender in terms of the impugned order till 11.01.2018. Granting further time to surrender to the applicant would be over reaching the order passed by the Hon'ble Apex Court.

8. In the order dated 14th December 2017 passed by this Court in the instant application, this Court has considered the report submitted by the Medical board in terms of the order dated 16th November 2017 passed by the co-ordinate Bench of this Court (Coram: Smt.Anuja Prabhudessai, J) mentioning that the applicant/accused is fit to undergo surgery of removal of implant. Though it is attempted to argue that para 5 in the said order was super imposed by this Court, it is well settled that the record of the court is sacrosanct. There is no affidavit on record to show that no such statement was made by the learned advocate for the applicant before this court.

9. In this view of the matter, no further extension can be granted in the wake of the order of Hon'ble Apex Court Dated 22.12.2017. The application is therefore rejected.

(A.M. BADAR, J)