

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.67 OF 2019

IN

CRIMINAL APPEAL NO.426 OF 2015

Pyarelal Shridhar Keer @ Pahalwan **...Applicant**

V/s.

The State of Maharashtra **...Respondent**

Ms. Nasreen S.K. Ayubi, Appointed Advocate for the Applicant.

Mr. H.S. Venegaonkar, Advocate for CBI.

Mr. S.V. Gavand, APP for the Respondent/State.

Mr. P.M. Nagawade, Nashik Central Prison present in person.

CORAM : A.M.BADAR J.

DATED : 18th FEBRUARY 2019

P.C. :

1. This is an application for temporary bail by the applicant/accused who is convicted of the offences punishable under Sections 8(a), 20(b)(ii)(c) read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 as well as under Section 28 read with Sections 8(c) and 29 of the said Act.
2. I have heard both sides.

3. Ms. Ayubi, appointed Advocate for the applicant/accused has stated that the applicant/accused is desirous of undergoing surgery at Shushrusha Hospital, Dadar and during the period of temporary bail, if granted, he will stay either at the hospital or at his residence at Prabhadevi.

4. The applicant/accused has contended in the instant application that, he is suffering from ailment and he has to undergo surgery as early as possible. The applicant/accused has contended that he is willing to bear the expenses of his surgery. It is further contended that on two occasions, the applicant/accused was released on parole leave and he has returned back to the prison after the period of parole was over. In support of his contention, the applicant/accused has placed on record copies of judgment of the learned Division Bench of this Court in Criminal Writ Petition No.2955 of 2017 and Criminal Writ Petition No.3180/2018 decided on 02.11.2017 and 16.10.2018 respectively.

5. In pursuant to the order dated 31.01.2019 passed by this

Court, the learned Additional Public Prosecutor has tendered across the bar communication of the Medical Officer, Class I of the District Hospital, Nashik. The same is marked as Exhibit A for the purpose of identification. By this communication, the Medical Officer of the District Hospital, Nashik has reported that the applicant/accused is suffering from *Dilated Cardiomyopathy (with poor ejection fraction EF 15 – 20%) with multivalvular involvement with congestive cardiac failure*. The Medical Officer further reported that this is serious ailment and it needs to be managed by continuous treatment from the expert doctor. It is reported that such facility is not available with the District Hospital, Nashik, but the same is available with the Divisional Hospital, Shalimar, Nashik. From the communication of the Medical Officer, it is seen that though the applicant/accused is suffering from this ailment, he was never taken to that hospital, but was admitted on earlier occasion with the District Hospital, Nashik. It is seen that the applicant/accused has undergone about nine years behind the bar.

6. Considering the nature of ailment suffered by the applicant/accused as well as the fact that medical treatment for

such ailment is not available with the District Hospital, Nashik, the applicant/accused deserves to be released on temporary bail. Therefore, the order.

ORDER

- (i) The application is allowed.
- (ii) The applicant/accused be released on temporary bail for a period of 45 days from his release to undergo surgery for his heart ailment.
- (iii) The applicant/accused to execute P.R.Bond of Rs.50,000/- and on furnishing one or two sureties in the like amount for getting release on bail.
- (iii) The applicant/accused will not leave Mumbai during the period on which he is on temporary bail without permission of this Court.
- (iv) The application is disposed of accordingly.

(A.M.BADAR J.)