

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

BAIL APPLICATION NO.1412 OF 2019

Amol Jaywant Pawar .. Applicant

Vs.

State of Maharashtra .. Respondent

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Mr. Shekhar Ingawle i/b. Mr. Anand S. Patil, Advocate for the Applicant.

Mrs. Geeta P. Mulekar, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 08, 2020.

P.C. :

The applicant is seeking bail on medical ground for temporary period. The applicant is in custody from 10th March, 2016 in connection with C.R.No.31 of 2016, registered with Ajara Police Station, District-Kolhapur for the offences punishable under Sections 302, 120-B and 201 read with 34 of Indian Penal Code ("IPC", for short).

2 The applicant had earlier preferred an application for bail viz. Criminal Bail Application No.1466 of 2018. By order dated 28th August, 2018, it was directed that the jail Authorities

shall ensure that the applicant is taken to Chougule Neurology Centre and Nursing Home, Kolhapur, on the date and time given for the applicant's check up and examination and for follow-up, if required. It was also observed that the applicant cannot be given treatment for the ailment, which he is suffering in C.P.R. Hospital, Kolhapur or in any Government Hospital in Kolhapur. Applicant contend that he is suffering from Lumbar and Cervical Spondylosis. In pursuant to the said order, the applicant was taken to Chougule Nursing Home. Applicant relies upon the medical certificate issued by Dr.Sanjay More, attached to Abhinav Nursing Home. Learned counsel for the applicant submitted that the applicant was examined at Chougule Nursing Home and thereafter he was referred to Orthopedic Surgeon Dr.Sanjay More, attached to Abhinav Nursing Home. The certificate issued by Dr.Sanjay More is produced in support of the submission that the applicant requires medical treatment and surgery, which can be performed in the private nursing home.

3 The certificate issued by Dr.Sanjay More mentions as follows:

"This is to certify that I, the undersigned Dr.Sanjay More, have gone through the all medical reports of Mr.Amol Jayvant Pawar, 33/M, R/o. Kolhapur and

referred by Dr. Sangram Chougule, Neuro Physician, Kolhapur. As he is not responding to medical line of treatment for chronic lumbar PID with Radiography, he has been advised endoscopic laminectomy and Discectomy by a team of Neurosurgeon, Orthopedic Sargon and Neuro physician as early as possible.”

4 Learned APP has tendered the report of Dr.Sanjay Padhye, Medical Officer, Kolhapur Central Prison, Kalamba. The applicant is detained in the said jail. The said report dated 8th January, 2020 mentions that it's a report in continuation of earlier report. As per the orders of the High Court, the patient was sent to Dr.Sanjay More, MS (Ortho) D.N.R. (ortho), as per the opinion and referral request of Neurosurgeon Dr.Sangram Chougule. As per the evaluation done by them of the said patient he requires a surgical intervention to treat him.

5 The patient wants operation done in a private hospital and hence he has moved application. The patient has been evaluated by experts and also in private hospital as per the courts permission. The xerox copy of the report of the private doctor which has been referred to herein above are annexed with the report. The report dated 8th January, 2020, is taken on record and marked “X” for identification. The certificate issued by Dr.Sanjay

More, tendered on the earlier occasion, is marked as “**X-1**”, for identification.

5 Learned Counsel for the applicant submits that undisputedly, the treatment is not available in C.P.R. Hospital or any other Government Hospital in Kolhapur. The applicant is in custody for a period of four years. The applicant is required to undergo surgery immediately. With a view to undergo surgery and the follow-up treatment, applicant be granted bail. Learned APP relied upon the report tendered by the medical officer, Kolhapur Central Prison. The report refers to the medical certificate dated 10th December, 2019, issued by Dr.Sanjay More. The report confirms that the applicant has been examined by the experts. Considering the aforesaid circumstances, the applicant can be granted bail on medical ground for a period of three months.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1412 of 2019, is allowed;
- (ii) The Applicant is directed to be released on bail in connection with C.R.No.31 of 2016,

registered with Ajara Police Station, District-Kolhapur, for the period of three months from the date of release on medical ground on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall intimate to concerned police station the details of his place of residence, details about his hospitalization and further details about treatment or surgery undergone by him;
- (iv) Applicant shall not tamper with the evidence while on bail;
- (v) On completion of period of three months from the date of release, the applicant shall surrender before Ajara Police Station, District-Kolhapur;
- (vi) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)