

JPP

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

CRIMINAL APPEAL NO. 98 OF 2021

Nanasaheb Piraji Doke

... Appellant

V/s.

The State of Maharashtra and Ors.

... Respondents

Mr. Swaraj S. Jadhav a/w. Vijay R. Garad i/b. D.K. Chavan for the Appellant

Ms. A.S. Pai, P.P. for the Respondent - State

***CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, JJ.***

DATE : 8 DECEMBER 2021

P.C. :-

This Criminal Appeal arises from the order refusing to grant of bail to the Appellant. The bail was sought on the ground that the Appellant was in critical health condition.

2. By order dated 7 September 2021, the earlier Division Bench had called for the medical report from the Sassoon Hospital, Pune. On 5 October 2021, when the matter came up on board, the following order was passed :-

“The Appellant had sought bail on the ground that he is

in critical health condition. The order was passed by this Court calling for medical report.

2. *When the matter is called out today, the learned counsel for the Appellant informed that he has received instructions that the Appellant has expired after the order was passed by this Court calling for medical report. Though the application/appeal for bail will no longer survive, before we dispose of the appeal, we take note of the report of the Chief Medical Officer dated 23 September 2021 shown to us by the learned APP. This report only mentions the particulars of illnesses described in medical terms. The report does not record any conclusion as to what was the condition of the Appellant, as to whether he was stable, critical, recovering etc. By simply filing a report full of medical terminology without recording any opinion, it is not possible for the Court to decide the health condition.*

3. *We would want to know from the Chief Medical Officer who has prepared this report as to why no conclusion has been mentioned. To enable the Chief Medical Officer to explain the position by way of affidavit, stand over to 20 October 2021.”*

No cogent explanation came forth to the query raised by the Court.

On 20 October 2021, the following order was passed :-

“Upon query by the Court as to what is the methodology followed by the State when a report regarding medical condition of a person applying for bail is sought by the Court and whether the report is given in a particular format etc., the learned PP seeks time to take instructions and to inform the court accordingly.”

3. It is found that the medical reports are generally not aligned with the query of the Court. Quiet often the reports do not give the specific conclusions but only narration of the condition of the patient in the medical terms. It is necessary for the adjudication and also for understanding of the Court that a particular format addressing the queries of the Court is prescribed for submission of the medical reports. Otherwise it is left to the Court to adjudicate the medical condition of the applicant without there being any definite conclusion or opinion of the medical officer, who examines the patient. The medical officers must take responsibility of informing the Court the full particulars of the patient under their care. It must also be realized that as a doctor, they have a duty towards the patient under their care.

4. The learned Public Prosecutor has placed before us a format of the Medical Report prepared to be submitted to the Court and assist the Court in arriving at the correct decision. The learned Public Prosecutor states that the format was drafted with due deliberations, with the officers. The format contains various columns such as medical report and other details which includes findings. It also includes medical facilities available in the prison hospitals, medical advice and treatment given and opinion qua the reason and purpose of medical report. The learned Public Prosecutor states that this format will be circulated to the Jail Authorities in Maharashtra so that whenever a medical report is

called for it can be submitted in tune with the format provided. The format/sample is taken on record and marked 'x'.

5. We have perused the format placed on record. In column 11 available medical facilities are mentioned, one more field after entry 20 can be added as "any other" which the Public Prosecutor states it will be added. The learned Counsel for the Appellant has perused the format and states this format would bring standardization. The learned Counsel suggests that the format should also contain a column as to indicate whether the condition of the patient is steady, improving or deteriorating. According to us, it may not be necessary as separate column as if the Court asks this query, it will be reflected in column 1, upon which opinion will be given in column 16.

6. For the sake of convenience and reference, the sample/format is reproduced as under :-

"Office of the Superintendent
Yerwada Central Prison
Yerwada, Pune – 411 006.
Tel. 020- 26682663.
Email id: spycppune@gmail.com

DATE:

PRISONER'S MEDICAL REPORT

01) REASON/PURPOSE OF MEDICAL REPORT:

02) UNDER TRIAL/CONVICT NO.

03) NAME OF PRISONER:

04) AGE & SEX: -----

05) DATE & TIME OF EXAMINATION:

06) PRESENT COMPLAINTS (IF ANY) :

07) PAST ILLNESS/ACCIDENT/OPERATIONS (IF ANY) :

08) CLINICAL FINDINGS:

A) GENERAL EXAMINATION

Observation	Details
Temp	
Pulse Rate	
BP	
RR	
SPO2	

B) SYSTEMIC EXAMINATION

System	Details
CVS	
RS	
Abdomen	
CNS	

09) INVESTIGATIONS DONE (IF ANY):

(10) CLINICAL DIAGNOSIS:

11) MEDICAL FACILITIES AVAILABLE IN PRISON HOSPITAL:

(Whichever is available the same will be tick marked.)

1	Multipara Monitor		2	ECG Machine	
3	Glucometer		4	Liver Function Test	
5	Sputum Exam		6	Urine Test	
7	Dengue Rapid Test		8	Malaria Rapid Test	
9	X-Ray facility		10	Dental Services	
11	Renal Function Test		12	Nebulisation	
13	Proctoscopy		14	ICTC lab for HIV	
15	General Ward		16	Isolation Ward	
17	Psychiatric Ward		18	In house Ambulance Service	
19	Prison Psychiatrist		20	Emergency Kit with Oxygen	

12) TREATMENT GIVEN :

13) MEDICAL ADVICE (IF ANY) :

14) REFERRAL TO HIGHER CENTRE (IF ANY):

15) PRESENT HEALTH STATUS:

16) OPINION OF MEDICAL OFFICER QUA SR.NO.1:

(Dr.....)
CHIEF MEDICAL OFFICER
YERWADA CENTRAL PRISON
PUNE-06"

The learned Public Prosecutor states that the Home Department of the State will circulate the format to all the prisons with instructions that whenever a query comes from the Court regarding the medical condition of the applicant, medical report should be in tune with the format which has been prescribed giving definite conclusion. Such instructions be given as early as possible preferably within a period of six weeks. The copy of the circular so issued be placed on record of this Appeal.

7. As regard the Appeal is concerned, since the Appellant is no more, the Appeal does not survive and is disposed of.

8. All parties to act on authenticated copy of this order.

9. Initiative and efforts taken by the learned Public Prosecutor are appreciated.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

**JYOTI
PRAKASH
PAWAR**

Digitally signed
by JYOTI
PRAKASH PAWAR
Date: 2021.12.14
17:45:32 +0530