

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

BAIL APPLICATION NO. 1442 OF 2021

Mohammad Furkan Faroukh Shaikh ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. S. V. Marwadi i/b. Mr. N. M. Nadar, Advocate for the Applicant.
Mr. H. J. Dedhia, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 25th JUNE, 2021

PER COURT:

1. The applicant is arrested on 12th August, 2019 in connection with C.R. No. 737 of 2019 registered with Virar Police Station for offences under Sections 302 & 201 of Indian Penal Code (for short “IPC”).

2. The applicant has preferred this application for temporary bail on medical ground.

3. The applicant contends that since, 2015, he is suffering from kidney ailment. He was taken to J.J. Hospital, Mumbai for treatment. The ailment has aggravated. The wife of the applicant has filed affidavit dated 28th May, 2021 stating that, the applicant was

taken to J.J. Hospital, Mumbai on 27th May, 2021. She found that his health condition is deteriorating and that he had complained about not getting proper treatment. The father of the applicant has also tendered affidavit dated 22nd March, 2021 stating that the applicant is kidney patient. He was undergoing treatment. His ailment was aggravated during his stay in custody.

4. Vide order dated 21st April, 2021, the report from Jail authority was called regarding the current status of the applicants' health. Report dated 28th April, 2021 produced before the Court stating that the patient is suffering from difficulty in micturition (Urination). Increased frequency of micturition with sense of incomplete evacuation. Severe burning with pain with pain during micturition. He has suffering from urethral stricture with bladder diverticulum with right Renal Hydronephrosis with hydroureter with renal parenchymal damage. He has been advised for urologist opinion and further management as early as possible.

5. Vide order dated 30th April, 2021, this Court observed that the applicant is advised for urologist's opinion. It is necessary to obtain a report as to whether the hospital attached to the jail has all the facilities to give medical treatment for the said ailment. Directions were issued to submit the report on the next date. Report

dated 20th May, 2021 sent by Superintendent of Thane Central Prison and issued by Head of Department, Department of Urology, Sir J. J. Hospital, Mumbai was submitted to this Court. Vide order dated 28th May, 2021 it was observed that the applicant was asked to attend J. J. Hospital, Mumbai on 4th & 8th June, 2021. The wife of the applicant has placed on record the affidavit stating that she had interacted with the applicant on 27th May, 2021 and the applicant has disclosed about his adverse health condition and further deterioration to her. Directions were issued to produce all the enclosures referred to in the medical report dated 20th May, 2021. Prison doctor was also directed to place on record the opinion of health condition of applicant. The report dated 10th June, 2021 about health condition of the applicant is received by this Court. The Chief Medical Officer, Thane Central Prison, in his medical report dated 10th June, 2021 has stated that the applicant is suffering from Right gross hydronephrosis with with renal parenchymal thinning with stricture at VUJ. He has urinary bladder diverticulum with cystitis with urethral calculi He was assessed by HOD, Urology Department, Sir J. J. Hospital, Mumbai on 18th May, 2021 and advised for 1. CT-IVP 2. MCUG/RGU. 3. Uroflowmetry and USG and 4. DTPA SCAN for confirmatory diagnosis and definitive treatment. He was sent to K.E.M. Hospital, Mumbai for DTPA SCAN on 4th June, 2021. He was

sent to Sir J. J. Hospital, Mumbai for USG (KUB) on 8th June, 2021. His scheduled for CT-IVP on 15th June, 2021 at Sir J. J. Hospital, Mumbai. The patient is complaining of ill health having pain severe pain in Right Loin with burning painful micturition with haematuria. His health is deteriorating day by day. He is haemodynamically stable. The Chief Medical Officer has also enclosed the examination report of Sir J. J. Hospital. The said report indicate that :-

“ Right gross hydroureteronephrosis with renal parenchymal thinning as described Features are likely suggestive of stricture at right VUJ.

Urinary bladder diverticulum with cystitis. Correlate with urine routine microscopy.

Few calcifications in the prostate in the midline. Possibility of urethral calculi is likely.”

6. Learned counsel for the applicant submitted that in view of health condition of the applicant temporary bail be granted for a period of four weeks.

7. Considering the medical report on record with regards to the health condition of the applicant, relief of temporary bail can be granted to the applicant.

ORDER

- (i) Bail Application No. 1442 of 2021 is allowed;
- (ii) The applicant is directed to be released on temporary bail for a period of four weeks from the date of release in connection with C.R. No.737 of 2019 registered with Virar Police Station, Dist. Palghar, on executing PR. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (iii) In the alternative, the applicant is permitted to furnish cash bail in the sum of Rs.50,000/-;
- (iv) The applicant shall provide the details about the treatment given to him and the place where he has been treated to the Investigating Officer every week while he is on bail.
- (v) On completion of four weeks from the date of actual release the applicant shall surrender before the Jail Authority.
- (vi) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)