

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1759 OF 2021

Mehul Thakur

Applicant

versus

The State of Maharashtra

Respondent

Mr.Ashok Mundargi, Senior Advocate and Mr.Manoj Mohite, Senior Advocate, i/by Mr.Vivek S. Babar for applicant.

Mr.H.S.Venegavkar, Special Public Prosecutor, for respondent no.1.

Mr.S.S.Pednekar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th June 2021

PC :

1. The applicant is arraigned as accused in PMLA Special Case No.404 of 2021. He is arrested on 23rd January 2021.

2. The applicant has preferred this application for grant of interim bail on medical grounds. The applicant has contended that he was infected with Covid-19. He suffered from psychological problems and require immediate medical care and attention from a Psychiatrist. Prolonged incarceration of the applicant has resulted in mental stress and trauma. He requires private counselling for his illness. He relied upon medical certificates which are annexed to the application. The applicant had preferred an application for interim bail on medical grounds before Special Court under PMLA. The report of Chief Medical Officer (CMO), Mumbai Central Prison was produced before Special Court wherein it was stated that patient (applicant) was examined by J.J.Hospital Psychiatrist. He is known case of major depressive disorder with obsessive compulsive disorder,

along with suicidal thoughts. It is cognizable mental illness. Doctor of J.J.Hospital advised treatment. The applicant was examined by Dr.Gaurav Pawar on 1st April 2021 and Dr.V.P.Kale, Professor and Head of Department, Department of Psychiatry. The report dated 4th April 2021 about psychiatric assessment of the applicant was produced before the Special Court. It is contended that the said report indicate that applicant is suffering from major depressive disorder with obsessive compulsive disorder. It is contended that applicant has fragile mental health and suffers from obsessive compulsive disorder since last 20 years with history of mental depression. His condition is worsened since he was taken in custody.

3. This application was initially heard by this Court on 21st May 2021. The Court perused the report dated 4th April 2021 of Department of Psychiatry of Grant Medical College and Sir J.J. Group of Hospitals ("J.J.Hospital" for short). Vide order dated 21st May 2021 this Court had directed that Superintendent of Jail, Mumbai Central Prison, to ensure that the applicant is granted facility of counselling of one private Psychiatrist/Psychologist of his choice in the premises of prison by following Covid-19 norms. It was also directed that at the time of such private counselling, the Psychiatrist/Psychologist from J.J.Hospital shall remain present. Such counselling be done twice in a week and for two hours per session. The dates and timing of such counselling be fixed by taking into consideration convenience of both the Psychiatrist/Psychologist. The Superintendent of Jail shall ensure that all facilities are provided for such counselling and privacy be provided to the Psychiatrist/Psychologist and the applicant.

4. The applicant was thereafter examined by the Psychiatrist/Psychologist in jail. The report dated 12th June 2021 was received from CMO. However, the report of Psychologist who had examined the applicant, was not annexed with the aforesaid report. Subsequently report dated 18th June 2021 was submitted to the Court along with report of Psychologist. The brother of applicant has also filed an affidavit enclosing report of Psychologist.

5. Mr.Mundargi, Senior Advocate, appearing for applicant, has submitted that in the light of report submitted by Doctors and report of Psychologist indicating the disorder of applicant, bail on medical grounds be granted to applicant. If the applicant continues to be in custody, his condition would deteriorate. The atmosphere in jail is not conducive for the treatment to be given to the applicant. The applicant has been suffering from illness since last several years. Health of the applicant is deteriorating every day. This fact is fortified by the medical reports which are placed for consideration before this Court. Mr.Mundargi further submitted that proviso to Section 45 of PMLA empowers the Court to grant bail to the accused on health ground.

6. Mr.Venegavkar, learned counsel for respondent, vehemently opposed the prayer for bail. It is submitted that the applicant is suffering from mental illness since last 20 years as contended by him. The treatment is being given to him in jail. He is involved in serious offence. No case is made out for granting bail on medical ground. It is submitted that in the report dated 4th April 2021 submitted by Department of Psychiatry, J.J.Hospital, it is stated that treatment (drug and counselling) can be taken from private/government

Psychiatrist/Psychologist as per patient's choice. Pursuant to order passed by this Court counselling was permitted by private Psychiatrist. The report also indicate that patient is conscious, co-operative and communicative. The report of J.J.Hospital also mentions that patient is suffering from mental illness which requires treatment, which can be undertaken on outdoor basis from Psychiatrist of patient's choice. Counselling session is advisable from Clinical Psychologist. The counselling which was permitted pursuant to the order of this Court, can be continued for a further period. The application of applicant on merits is pending before Special Court. No case is made out that applicant requires to be treated after enlarging him on bail and that his custody is causing an impediment for the treatment which is required to be given to him.

7. I have perused the medical reports which are placed for consideration. I have also perused the documents annexed to this application. The applicant had preferred application for bail on medical grounds before the Special Court under PMLA. The said application was rejected. While rejecting the said application the Court had taken into consideration medical reports placed before the Court. It was observed by the Special Court that in respect of nature of depressive disorder with obsessive compulsive disorder in continuous has been reported that applicant is suffering from mental illness which requires treatment and no need of indoor management and treatment (drug and counselling) can be taken from private/government Psychologist as per patient's choice. The team of medical officers of Department of Psychiatry, J.J.Hospital, Mumbai is providing proper medical treatment, drugs and counselling to the applicant. The Court had directed the concerned Superintendent of

Jail to provide medical care and medication to the applicant. He is under constant supervision of medical experts. It was further observed on perusal of medical report that it does not appear that applicant suffers from serious mental illness or he could be more vulnerable to disease in the prison, even during pandemic of Covid-19. The symptoms of OSD and clinical depression can be the symptoms which are generally noticeable and improve with psychological counselling, anti depression medication or a combination of two, which has been already provided to the applicant. Hence, there is no exigency to grant interim bail whereas regular bail application is pending.

8. Vide order dated 21st May 2021 the applicant was granted facility of counselling of private Psychiatrist/Psychologist. The directions of this Court are complied. The report dated 12th June 2021 issued by CMO, Mumbai Central Prison, mentions that the prisoner was admitted to Arthur Road Jail on 31st February 2021. He submitted medical papers upon admission to Arthur Road Jail showing past psychiatric treatment and counselling certificates issued by private Psychiatrist. Outside medication has been provided to him as per earlier records. In compliance of High Court order dated 21st May 2021, facility of counselling is provided to the applicant. One private Psychiatrist as per choice of prisoner and one Psychologist from J.J.Hospital have examined the prisoner. Five sessions were provided till date as per report. The sessions were conducted on 28th May 2021, 31st May 2021, 4th June 2021, 7th June 2021 and 11th June 2021. The applicant is provided counselling sessions within Arthur Road Jail premises. He was also referred to J.J.Hospital in out patient department on 9th June 2021 and advised

EEG. The report dated 18th June 2021 submitted by CMO, Mumbai Central Prison mentions that the prisoner was admitted to Arthur Road Jail on 31st February 2021. In compliance with order dated 21st May 2021 the report is submitted on 12th June 2021. Detailed reports of Psychologist were attached. The report of private Psychologist dated 6th June 2021 and case papers which were endorsed by Dr.Prakhar Jain were also annexed along with said report. The report of Psychiatrist indicate that she was professionally engaged to keep sessions in psychotherapy to the prisoner. The report indicate that mental health of the prisoner has deteriorated. Persistent negative thinking and infirmness is continued. He faces difficulty in communicating. He cannot recall names and faces, forgetfulness of events and experiences. He will require sustained and frequent therapy sessions over an indefinite period of time. The sessions in jail do not have a lasting effect. He has continuous desire to end life and cause harm to himself. The medical case papers refer to the counselling adopted by Psychiatrist.

9. From the contents of the application and medical case papers it is apparent that the applicant has been suffering from major depressive disorder with obsessive compulsive disorder since last several years. He has been undergoing treatment. From the medical case reports it is also apparent that all the requisite treatment has been provided to the applicant. Whenever necessary he has been taken to J.J.Hospital. He has been referred to Psychiatry Department pursuant to the order of this Court. The counselling by private Psychologist is also provided to the applicant. No case is made out for granting bail to the applicant. The requisite treatment can be provided to the applicant in jail. Hence, relief as prayed in this application cannot be granted.

10. Hence, I pass following order :

ORDER

- (i) Bail Application is rejected;
- (ii) The applicant may be provided all the required medical facilities in jail and if necessary he can be taken to J.J.Hospital as and when required;
- (iii) The facility of counselling of applicant by two psychiatrists (one of applicant's choice and another from Grant Medical College and Sir J.J.Group of Hospitals) as stipulated in order dated 21st May 2021 be continued for a period of one month and in case it is further required, the Trial Court shall pass appropriate orders in that regard;
- (iv) The application for bail preferred by applicant before Trial Court on merits be decided expeditiously.

(PRAKASH D. NAIK, J.)

MST