

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPEAL NO. 470 OF 2021

Mahendra Shivshankar Thakur ...Appellant
vs.
The State of Maharashtra
& Anr. ...Respondents

Mr.Vinod Kashid for appellant.
Mrs.A.S. Pai, APP for respondent No.1-State.
Mr.Bipin Vora for respondent No.2.

**CORAM : S. S. SHINDE &
N. J. JAMADAR, JJ.**
DATE : JUNE 24, 2021
(THROUGH VIDEO CONFERENCE)

P.C.:

1. Heard Mr.Kashid, the learned counsel for the appellant, Mrs. Pai, the learned APP for the State and Mr.Bipin Vora, the learned counsel for respondent No.2.
2. This appeal is preferred for release of the appellant on temporary bail to attend to the medical treatment of the wife of the appellant, who is suffering from cancer.
3. The substance of the appeal is that the wife of the appellant was operated upon to remove carcinogenic tumor on 14th April 2021. For the said purpose, the appellant was released on temporary bail, by order dated 3rd April 2021. The said order came to be extended till 21st April 2021, on which date the appellant surrendered before the Superintendent,

Taloja Prison. Subsequently, by order dated 4th May 2021 passed in Criminal Appeal No. 417 of 2021, the appellant was again released on temporary bail, for a period of 15 days. The period was extended and eventually the appellant surrendered on 20th May 2021. In the intervening period, the scheduled second surgery of the wife of the appellant could not be performed as there was nobody to look after the appellant's wife. There is no other male member in the family of the appellant, who can effectively attend to and take care of the wife of the appellant. The surgery is now scheduled to be performed on 28th June 2021.

4. In the aforesaid factual backdrop, the learned counsel for the appellant submitted that the appellant be released on temporary bail for a period of atleast one month.

5. The learned APP has invited the attention of the Court to the statement of the treating doctor, namely Dr. L.N. Mittal, recorded on 28th May 2021, wherein it was stated that any responsible person, other than the husband, can also attend to the wife of the appellant for the scheduled surgery. The learned APP would urge that the release of the appellant is not absolutely warranted.

6. The learned counsel for the appellant has filed the affidavit of the wife of the appellant. A copy of the certificate issued by Dr.L.N.Mittal is annexed to the said affidavit. Dr. Mittal has certified that the wife was to

be operated for left breast lump on 1st June 2021. However, the surgery could not be performed as the appellant was not available. The surgery is now scheduled to be performed on 28th June 2021 and the patient would need three weeks rest, post-surgery. The certificate further records that the presence of the appellant is required at the time of the surgery of his wife.

7. Evidently, the appellant was released on temporary bail when the wife of the appellant was operated upon, on the previous occasion. The claim of the appellant that there is no other person who can effectively attend to his wife during the course of her surgery and take her care, cannot be said to be unfounded. There is material to indicate that the surgery is scheduled on 28th June 2021. We are of the view that the presence of the appellant to attend to his wife during the course of the said surgery and for post operative care is necessary. Thus, to advance the cause of justice and on humanitarian consideration, we are inclined to release the appellant on temporary bail for a period of four weeks from the date of his release from prison.

8. The learned counsel for the appellant, on instructions, submits that the appellant will not, in future, seek release on temporary bail on the count of illness of his wife.

9. The undertaking given on behalf of the appellant is recorded.

10. Hence, the following order :

O R D E R

(a) The appellant-Mahendra Shivshankar Thakur be released on temporary bail till 25th July 2021, on furnishing cash surety of Rs.25,000/-, which is already deposited by the appellant with Taloja Jail Authorities on 12th April, 2021.

(b) The appellant will reside at 905, 9th Floor, 'A' Wing, Swagat Heights, Near GCC Club, Mira Road (East), Taluka, District Thane – 401 107.

(c) The appellant shall be accompanied by a Single police personnel who would act as a police escort and he shall be escorted in his own vehicle and the appellant would require to bear the financial burden of only one police personnel.

(d) The appellant shall surrender himself on or before 25th July, 2021, failure to do so, would result in his arrest.

11. The appeal stands disposed of.

Parties to act on an authenticated copy of this order.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)