

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

950 CRIMINAL APPLICATION NO.692 OF 2022
IN APEAL/425/2018

DHANANJAY @ DHANYA YOGIRAJ RASAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. N. V. Gaware
APP for Respondent no.1-State: Mr. M. M. Nerlikar
....

**CORAM : V. K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 9th MARCH, 2022.

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P. C. :

1. Heard both the sides.
2. The applicant / accused is seeking bail on health ground. According to the applicant, he immediately requires the valve replacement surgery. In compliance with the directions in the order dated 3rd March, 2022 the learned APP has taken the instructions in writing. The Superintendent of the Central Prison, Aurangabad has forwarded the medical report issued by the Chief Medical Officer, Aurangabad Central Prison. We have carefully gone through the said report. In para no.10, the Chief Medical Officer has mentioned the clinical diagnosis which reads as under :

"10) CLINICAL DIAGNOSIS :

Rheumatic Heart Disease, with congestive cardiac failure (Recovered) with Severe Mitral stenosis with severe tricuspid regurgitation with Pulmonary Hypertension."

Further in para no. 16 the Chief Medical Officer considered the opinion that the general condition of the applicant is very weak and not satisfactory and can deteriorate in future. He has further opined that the illness of the applicant is severe and cardiac related disease, his condition may worsen in future and his life may go in danger.

3. Learned counsel for the applicant / accused submits that the applicant has decided to undergo the surgery in either of the hospitals as below :

- 1) Shirdi Hospital or
- 2) Nerul Specialty Hospital and Research Centre at Mumbai.

Learned counsel submits that 8/9 months duration is required for pre-surgery treatment, surgery period and post surgery period.

4. Learned APP submits that in view of the report submitted by Chief Medical Officer, Aurangabad Central Prison and in terms of

his opinion, it appears that the applicant / accused is required to undergo the surgery immediately. Learned APP submits that an appropriate order may be passed, however, at present the order of temporary bail may be passed for a limited period of 2/3 months and after revival of the situation, extension of the temporary bail can be considered.

5. As per the opinion of the Chief Medical Officer, the general condition of the applicant / accused is very weak, not satisfactory and can deteriorate in future. In his opinion his life may go in danger. In view of the same, we are inclined to grant temporary bail to the applicant / accused at present for a period three months with certain conditions. Hence, the following order.

ORDER

1. Criminal application is partly allowed.
2. Pending hearing of the appeal preferred against the judgment and order of conviction the applicant / accused- Dhananjay @ Dhanya Yogiraj Rasal be released on temporary bail for a period of three months on executing personal bond of Rs.15,000/- with one surety of the like amount on the following conditions :

I) The applicant / accused shall furnish his address of residence during the period of temporary bail.

II) The applicant / accused shall also inform to this Court as to the name of hospitals where he decides to undergo the surgery.

III) After expiry of the said period of three months from date of his release, the applicant shall surrender himself to the jail on his own.

3. The applicant / accused is at liberty to file an application for extension of his temporary bail depending upon his health condition after expiry of said three months.

4. Criminal application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-