

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

CRIMINAL BAIL APPLICATION NO. 322 OF 2022

Rajendraprasad Tejuprasad Rajbhar ...Applicant
Versus
The State Of Maharashtra ...Respondent

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Mr. Saumitra Salunke i/by P. R. Yadav, Advocate for the Applicant.

Mr. Arfan Sait, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.
DATE : 9th MARCH, 2022.

PER COURT:

1. The applicant is permitted to delete prayer clause (a).
The application has been amended in accordance with order dated 1st March, 2022 and prayer clause (aa) has been added to this application with prayer to release the applicant on temporary bail for a period of six months on medical ground.
2. The applicant is arrested on 20th May, 2019 in connection with C.R. No.179 of 2019 registered with Sahar Police Station, Mumbai for offence under Section 376(2)(f)(i) of Indian Penal Code (for short “IPC”) and Sections 4 & 8 of the Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’).
3. The previous application preferred by the applicant has been rejected by this Court by order dated 9th March, 2020.
The said application however rejected on merits.

4. The applicant had preferred an application on medical ground before the Court of Sessions which has been rejected by order dated 21st February, 2022.

5. The applicant has urged that, while in custody the applicant has suffered paralytic attack. He was admitted in J.J.Hospital and was subsequently discharged. The health condition of the applicant is deteriorating. Hence, for the purpose of adequate treatment, the applicant be released on temporary bail.

6. This application was listed before the regular Court. However, by order dated 21st February, 2022, the regular Court had directed that the matter may be placed before the regular Court in view of previous order rejecting the application for bail.

7. Since it was urged that the applicant had suffered paralytic attack and he has been admitted in J.J. Hospital, by order dated 1st March, 2022, the applicant was permitted to amend this application and add requisite amendment and also annex the order dated 21st February, 2022 passed by the Sessions Court rejecting the application for bail on medical ground. The Court also called for report from Mumbai Central Prison as well as J.J. Hospital. Pursuant to the aforesaid order the report from Mumbai Central Prison and J.J. Hospital was received by this Court.

8. Learned counsel for the applicant submitted that the medical reports fortifies the fact that the health condition of the applicant is not good. He had suffered paralytic attack. The applicant is in custody from 20th May, 2019. Considering the health condition of the applicant, adequate treatment is required to be provided to him on account of the atmosphere in the jail. The applicant would not be in position to get proper treatment and recovery from the ailment from which he is suffering.

9. Learned APP submitted that, adequate treatment is being provided to the applicant in jail. The report of J.J. Hospital indicate that the applicant was treated in the Neurology Department from 07-02-2022 to 12-02-2022. He was discharged on 12-02-2022 and at the time of discharge she was stable clinically. It is further submitted that the medical report submitted by the Chief Medical Officer, Mumbai Central Prison, Mumbai also refers to the present health status of the applicant and it has been stated that general condition of the applicant is moderate. Hence, in the light of this report, it is submitted that the case for grant of bail on temporary ground is not made out.

10. It is noted that the applicant had preferred an application for bail on medical ground before the Court of Sessions

which has been rejected by order dated 21st February, 2022. The order indicates that the learned counsel for the applicant had urged before the Sessions Court that the applicant had suffered with paralysis attack in February, 2022. In the absence of any supportive documents as to how the concerned had gathered the information that the accused suffered with paralytic attack is not clear. According to the prosecution the jailer had not conveyed about the said fact. It is not possible to consider the prayer for bail without document. Thus, it is apparent that the learned Sessions Judge was not appraised about ailment of the applicant with supportive documents. The Medical report which are produced before this Court were not placed for consideration before the Sessions Court.

11. I have perused the medical report dated 07-03-2022 and 05-03-2022. the report dated 07-03-2022 has submitted by the Medical Officer, J. J. Hospital. In compliance with the order passed by this Court, the report includes the letter dated 7th March, 2022 issued by the Neurology Department of J. J. Hospital to the Medical Superintendent, J. J. Hospital, Mumbai indicating that the applicant was treated as indoor patient and the report about his treatment is enclosed. The letter dated 07-03-2022 issued by the Neurology Department to the Medical Superintendent, J.J. Hospital

mentioned as follows :-

“As per case history papers, Mr. Rajendraprasad Teju Prasad Rajbhar is a 58 yr old male, Prisoner from Arthur Road Jail B/B PC No 141409 came with complaints of, left sided weakness with type 2 diabetes mellitus and hypertension.

He was admitted at Sir J.J. Hospital in ward 23 under Neurology from 07/02/2022 to 12/02/2022 with a diagnosis of acute ischemic stroke due to lacunar infarct.

On admission he had pulse rate: 86 bpm, BP: 160/80 mm hg.

Clinical examination revealed left sided hemiplegia and left UMN type facial palsy with dysarthria. Left sided upper + lower limb power was 0/5 and right sided power was 5/5. He was confined to bed with indwelling catheter.

Investigations revealed random blood sugar of 258mg/dl, Creatinine- 1.0mg/dl, urea- 16.5 mg/dl, SGOT-24.3U/L, SGPT-22.2 U/L, total bilirubin – 0.3 mg%.

USG abdomen showed mild prostatomegaly and Fundoscopy was normal.

CT brain done on 07/02/2022 revealed extensive small vessel ischemic changes with no e/o bleed. CT brain angiography showed no major vessel occlusion.

He was diagnosed with lacunar stroke and treated with antiplatelets- Tablet-Ecosprin and Tablet-Clopidogrel, Statin- Tablet-Atrovastatin, antihypertensive- Tablet-Telmisartan and antidiabetic- Tablet -Metformin. Physiotherapy given.

Appointment for MRI Brain stroke protocol was taken for 22/02/2022 for further characterization of the lesion. Patient was discharged on 12/02/2022. At the time of discharge, he was stable clinically with pulse rate: 82bpm, BP: 146/90 mm hg, but was bed bound with no improvement in his left sided power.”

12. The report also enclosed the discharge summary of the applicant issued by J. J. Hospital stating that the applicant was

admitted on 07-02-2022 and discharged on 12-02-2022. The history referred to therein mentions that there was sudden onset weakness of left side of body since evening 7 p.m. associated with facial deviation to right side and slurred speech. Patient was apparently alright till 7 p.m. today when he developed sudden onset weakness in left upper limb and lower limb. It was maximum at the onset and non progressive causing inability to hold objects stand and walk. He also C/O slurred speech with facial deviation to right side. Diagnosis were left hemiplegia secondary to acute ischemic stroke newly detected hypertension and diabetes mellitus. The medical case papers also refers to the treatment given to him.

13. The report dated 05-03-2022 issued by the Chief Medical Officer, Mumbai Central Prison, Mumbai refers to the illness of the applicant and the present complaint viz. Left sided weakness, facial deviation to right side, giddiness, tendency to fall, slurred speech. The medical advice provided to physiotherapy along with strict adherence to medicines, salt restricted and diabetic diet. The report also refers to present health status of patient that history is being provided medicine as prescribed from Sir J. J. Hospital. He is bed ridden at present with weakness over left side of body with facial deviation to right side. His blood sugar level and blood

pressure is deranged in spite of taking regular medicines. His general condition is moderate.

14. Both the reports are taken on record and marked as 'X' & 'X-1' for identifications. Although the report of Chief Medical Officer, Mumbai Central Prison, Mumbai indicates that, general condition of the patient is moderate, it is undisputed that the applicant is bed ridden with weakness over left side of body with facial deviation to right side

15. In the light of the observations made in both the reports, it would be appropriate that the applicant is granted temporary bail for a period of six months to enable him to take appropriate treatment in healthy atmosphere.

16. Hence, I pass the following order:

ORDER

- i.** Criminal Bail Application No. 322 of 2022 is allowed;
- ii.** The applicant is directed to be released on bail in connection with C.R. No.179 of 2019 registered with Sahar Police Station, Mumbai for a period of six months from the date of release on medical ground on executing PR. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii.** The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of ten weeks in lieu of surety.

- iv.** The applicant shall not approach the victim in any manner.
- v.** The applicant shall not stay in the vicinity of the residence of the victim.
- vi.** The applicant and/or other relatives of the applicant shall not pressurize the victim or in any other witnesses.
- vii.** On completion of the period of six months, the applicant shall surrender to jail.
- viii.** Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)