

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL INTERIM APPLICATION NO. 1636 OF 2022
IN
CRIMINAL APPEAL NO. 1546 OF 2022

Gurjit Singh Anand @ Vicky Anand
S/o. Shree Harnam Singh
Versus
Intelligence Officer and Anr.

...Applicant
...Respondents

Mr. Advait Tamhankar a/w Ms. Ashwini Achari i/b Taraq Sayed for the Applicant.

Mr. Advait Sethna i/b Raju Thakker & Sandeep Raman for the Respondent No.1/DRI.

Mr. V.B.Konde Deshmukh, A.P.P. for the Respondent-State.

CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.
DATE : 29th JULY, 2022

P.C. :

1. At the outset, learned Counsel for the applicant seeks leave to amend the serial number of the prayer clauses. Leave granted.

Amendment to be carried out forthwith.

2. Heard learned Counsel for the parties.

3. By this application, the applicant seeks extension of interim bail granted by this Court vide order dated 13th May, 2022, by two months (now learned Counsel for the applicant orally seeks six months) as well as permission to take further medical treatment for cancer, at the All India Institute of Medical Science (AIIMS), New Delhi, instead of, HCG ICS Khubchandani Cancer Centre, Colaba, Mumbai, and permission him to stay at his residence at the address mentioned in clause (c) of the application.

4. Perused the papers. Vide order dated 13th May, 2022, this Court (*Coram : A.K.Menon & N.R.Borkar, JJ*) whilst considering the aforesaid petition, having regard to the medical condition of the applicant and the medical opinion on record from Sir J.J.Groups of Hospitals and GMC, permitted the applicant to seek opinion for

further course of treatment from the SCG ICS Khubchandani Cancer Centre, Colaba, Mumbai. Accordingly, this Court vide the said order, released the applicant on interim bail for a period up to 8th June, 2022 on certain terms and conditions. Accordingly, the petitioner was permitted to avail treatment under the guidance of Dr. Shyam Shrivastav of the SCG ICS Khubchandani Cancer Centre, at his own costs. During the said period, the applicant was residing at Byculla, Mumbai, at the address mentioned by the applicant. Thereafter, vide order dated 8th June, 2022, the protection granted by this Court i.e. interim bail was extended up to 16th June, 2022. The medical report submitted by the applicant was taken on record by this Court and the same is reflected in the order dated 8th June, 2022, whilst extending interim bail to the applicant. Thereafter, the matter was adjourned, from time to time and interim bail granted to the applicant was extended by this Court.

5. Today, learned Counsel for the applicant, by the aforesaid application seeks permission to take treatment at AIIMS at New Delhi

instead of, SCG ICS Khubchandani Cancer Centre, Colaba, Mumbai.

6. The applicant was arrested in an NDPS Case and was charged for the offences punishable under Sections 21(c), 23(c), 27-A r/w Section 8(c) and other provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985. It appears that when the applicant was taken into custody, he fell sick and was taken to Sir J.J.Hospital. Medical investigation revealed that the applicant was suffering from lesions in the abdomen area as stated in the report dated 20th April, 2022. This Court, vide order dated 13th May, 2022, permitted the applicant to take treatment at SCG ICS Khubchandani Cancer Centre, Colaba, Mumbai, where the applicant took treatment. The applicant has undergone Radiation Therapy at the TATA Memorial Hospital and is presently residing at the residence of the Advocate, as he is unable to fend for himself, in particular, to take a room in Mumbai.

7. The applicant in the aforesaid application has stated that the treatment at SCG ICS Khubchandani Cancer Centre, Colaba,

Mumbai is expensive and that, now he is unable to afford the said treatment in a private hospital. In addition, the applicant is also incurring additional expenses. His wife, who is a teacher, working in a private school, has temporarily shifted to Mumbai and the children are in Delhi. Learned Counsel for the applicant submits that the applicant would like to continue his treatment in the AIIMS, New Delhi, a Government Hospital.

8. The applicant is suffering from multiple organ cancer. The medical certificate of the Oncologist shows that the applicant is suffering from Metastatic None-Clear Cell Renal Carcinoma with Lung and Brain Metastasis, diagnosed at TATA Memorial Hospital. Learned Counsel for the applicant has relied on several medical certificates annexed to the petition and documents tendered. Mr. Sethna, learned Counsel appearing for the NCB does not dispute the medical certificates or the medical condition of the applicant, however, according to the affidavit filed by the respondents, the applicant can continue with his treatment at a private hospital, in

Mumbai.

9. The applicant has filed an affidavit of the petitioner. In the said affidavit, it is stated that the treatment for cancer i.e. multiple organ cancer is expensive and that till date, the applicant has spend in lakhs for his treatment. The applicant has further stated that he is a permanent resident of New Delhi and as such, he will reside at his own residence and take treatment, at a Government Hospital. He has further undertaken that he will not abscond and is ready to abide by the conditions imposed by this Court. He has further stated that his brother will attend the DRI office and give updates regarding the health status of the applicant alongwith latest medical reports. It is further stated that the medical reports show that his life expectancy is not more than 22 months and as such, he wishes to spend time with his family.

10. As noted above, learned Counsel for the respondent does not dispute the medical condition / medical reports tendered and filed by the learned Counsel for the applicant.

11. Considering the aforesaid, having regard to the medical condition of the applicant and in the peculiar facts and circumstances of the case, on humanitarian grounds, we allow the application and as such, extend the interim bail granted vide order dated 13th May, 2022, by six months from today, and permit the applicant to shift to New Delhi and take treatment at the AIIMS Hospital, New Delhi.

12. The applicant's brother to attend the DRI office, every fortnight on Saturday, for informing / updating the authority of the health status of the applicant alongwith medical documents in support thereof.

13. Application is accordingly, disposed of on the aforesaid terms.

14. The aforesaid Writ Petition to be placed 'for admission', after six months i.e. 30th January, 2023.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.