

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL INTERIM APPLICATION NO. 1832 OF 2023
IN
CRIMINAL APPEAL NO. 463 OF 2023
ALONGWITH
CRIMINAL APPEAL NO. 463 OF 2023

Arif Abubakar Shaikh
Versus
The State of Maharashtra & Anr.
...Applicant/Appellant
...Respondents

Mr. Rizwan Merchant a/w Mr. Sandeep R. Karnik & Mr. Rohan
Bhosale, for the Applicant/Appellant.

Mrs. P.P.Shinde, A.P.P for the Respondent-State.

Mrs. Aruna S. Pai, Spl. P.P a/w Mr. S.K.Sadawarte, for NIA.

Mr. Harshad Ahirrao, Superintendent of Arthur Road Jail.

Dr. Aman Pandey, Medical Officer from Arthur Road Jail.

Dr. Madhukar Gaikwad & Dr. Aakash Parab from J.J.Hospital.

CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.
DATE : 13th JULY, 2023

P.C. :

1. Pursuant to our order dated 5th July, 2023, the applicant was taken to Global Hospital and Research Centre, S.V.Road, Opposite Andheri Station, Andheri (West), Mumbai, to undergo all tests/examination pertaining to his health. By the said order, we had directed that the Medical Reports of the applicant given by three doctors mentioned in the order, be submitted in a sealed envelope, through the Superintendent of Arthur Road Jail. Pursuant to our said order dated 5th July, 2023, the Medical Reports of the applicant have been submitted in a sealed envelope.

2. We have opened the said envelope and handed over the original Medical Reports to the learned Counsel for the applicant and directed out Court Sheristedar to retain xerox copy of the said reports for our record. Xerox copies of the said Medical Reports have also been handed over to the learned APP, so as to enable the Chief Medical Officer, Arthur Road Jail, to keep a record of the said examination, for his record.

3. By the aforesaid application, the applicant seeks temporary bail on medical ground for four weeks.

4. Admittedly, the bail on medical ground is filed for the first time in this Court and the applicant had not approached the trial Court for seeking the said relief.

5. Considering the aforesaid, we deem it appropriate to relegate the applicant to the trial Court, by permitting the applicant to file an application before the NIA Court for temporary bail on medical grounds.

6. If such an application is filed by the applicant, the learned Judge, to decide the same as expeditiously as possible, and in any event, within 10 days of the filing of the said application. It is open for the learned Judge, to consider all the medical Reports tendered in this Court, from time to time, and even the latest reports of Global Hospital tendered today, the original of which, has been handed over

to the learned Counsel for the applicant. The said application to be decided on its own merits, after hearing the parties.

7. Learned APP has tendered affidavits of Dr. Madhukar Gaikwad from J.J.Hospital and Shree Harshad Ahirrao – Superintendent of Mumbai Central Prison, Mumbai, as directed by this Court vide order dated 5th July, 2023. The same are taken on record and the explanations given therein, by the said authorities are accepted.

8. In the meantime, till the application of the applicant is decided by the trial Court, the applicant be kept in J.J.Hospital, having regard to his fluctuating sugar parameters, so as to enable the hospital authority to monitor the sugar levels of the applicant. The applicant, to co-operate with the treatment given by the Doctor.

9. We permit the applicant's wife to meet the applicant as per the visiting hours of the hospital.

10. At this stage, learned Counsel for the applicant requests that the applicant be permitted home cooked food. It is open for the applicant to make such an application before the appropriate authority / before the trial Court.

11. The Interim Application is accordingly disposed of on the aforesaid terms.

12. Criminal Appeal No. 463 of 2023 be listed on **27th July, 2023**, under the caption 'For Admission'.

13. All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.