

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2454 OF 2023

Dheeraj Wadhawan
versus
Central Bureau of Investigation and another

Petitioner

Respondents

Mr.Amit Desai, Senior Advocate, with Mr.Kushal Mor, Gopal Shenoy, Pooja Kothari, Rohan Dakshini, Urvi Gupte i/hy M/s.Rashmikant and Partners for Petitioner.

Mrs.Anamika Malhotra, APP, for State.

Mr.Avadhut M. Chimalkar, Special PP for CBI with Mr.I.C.Nirbhavne, Mr.Kanishk Waghware.

Mr.Jaiveer Singh, Inspector, CBI, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th July 2023

PC :

1. Petitioner seeks modification of order dated 13th July 2023 passed by Special Court under PMLA Act, Greater Mumbai in Special Case No.830 of 2021 @ 965/2021. The operative part of order reads as under :

“1. This application (Exh.220) for interim/temporary bail and the similar medical ground claimed for bail vide Chapter 10, Page-287 of Exh.198 stands rejected.

2. However applicant (A3) Dheeraj Wadhawan is permitted to avail the procedure in Leelavati Hospital, Mumbai at his own cost and expenses for 8 (eight) days only, in the judicial custody itself.

3. The period of 8 (eight) days will begin when Jail Authorities will transfer the accused and admit him in Leelavati Hospital, Mumbai.

4. The applicant (A3) and his relatives shall first of all get ascertained the necessary charges of the required squad/escort/ police staff, right from the day he is handed over to them from jail till he resumes the jail.

5. The Jail Superintendent, Taloja Central Jail, shall arrange the 2 or 3 police staff as per necessity for continuous vigilance (24x7) on the applicant (A3) and the applicant (A3) shall deposit the said charges with the police authority concerned, well in advance.

6. CBI is at liberty to depute their required staff to keep vigilance on the applicant (A3) during the aforesaid hospitalization in order to avoid repetition of earlier episode and report this Court immediately if they notice any activity which is detrimental to CBI case and further investigation.

7. The applicant (A3) and his relatives shall deposit the charges of CBI staff well in advance to the said authority.

8 The CBI staff shall tender the copy of this order to the Leelavati Hospital Management as well as treating doctors of the applicant (A3), particularly Dr.Nitin Gokhale and bring to their notice the seriousness of the observations made by this Court as to how the applicant (A3) had misused his previous hospitalization and the doctors/management of Leelavati Hospital shall take utmost care not to extend the stay of the applicant (A3) in the hospital unless their advise warrants the same, after performing necessary procedures and immediately discharge him or else CBI is at liberty to submit its report in the Court, so that it will be convenient to initiate legal action against the errants.

9. Treating Doctors, Management of Leelavati Hospital, Police Staff and CBI staff with accused shall not permit any family members to meet the applicant for more than an hour everyday at the time fixed by the treating doctors. Any breach thereof shall be reported to the Court immediately.

10. The Management of Leelavati Hospital shall not extend the hospitalization at the wish and whim of the

applicant (A3) and shall immediately report this Court regarding his discharge.”

2. Learned Senior Advocate Mr.Desai appearing for Petitioner submitted that on account of ill health and ailment suffered by Petitioner he has been permitted to be treated at Leelavati Hospital, Mumbai. He cannot be burdened with charges for deployment of staff of jail, as stipulated in Clause-5 of the impugned order. The assets of Petitioner are frozen and his resources are exhausted. It becomes difficult for his wife to pay the said charges. The Petitioner be exempted from payment of such charges. The order of Special Judge indicate that the Jail Superintendent, Talaja Central Prison, is directed to depute 2 or 3 Police Staff as per necessity for continuous vigilance on the Petitioner. However, five personnel are deployed and Petitioner is directed to deposit charges towards it. It is further submitted that as per Clause-6 of the operative part of impugned order, CBI is permitted to depute required staff to keep vigilance on the Petitioner during hospitalization. As per Clause-7, the Petitioner and his relatives are directed to deposit the charges of CBI staff. The presence of police staff in accordance with aforesaid direction would cause difficulty to the family members of Petitioner and for smooth treatment of Petitioner. The Petitioner cannot be directed to pay such charges which is impermissible under law. It is further submitted that in accordance with Clause-9 of the aforesaid order, the Special Court has directed the Doctors, Management of Leelavati Hospital, Police Staff and CBI Staff with accused not to permit any family member to meet the petitioner for more than an hour every day at the time fixed by the Doctors and in the event of breach of said condition the same shall be reported to the Court. On account of nature of ailments suffered by Petitioner, the family members of

Petitioner will be required to remain present near Petitioner throughout the day. The wife, minor children and mother of Petitioner may be permitted to meet the Petitioner for substantial period of time. Any emergent situation may arise at any point of time and presence of family members of Petitioner would be required near him for giving consent for treatment/surgery/test etc. to the Petitioner.

3. Learned advocate Mr.Chimalkar appearing for CBI submitted that CBI staff is always sitting outside the room and not inside the room where the Petitioner is admitted. CBI never charges any amount for deployment of its staff. Hence there should not be apprehension about payment stipulated in Clause-7 of the order. CBI would deploy one person at a time on shift basis round the clock. It is submitted that Special Court has provided one hour time for the family members to meet the Petitioner, which is sufficient. Hence no relaxation may be granted to the Petitioner in that regard. It is further submitted that on account of past incident as reflected in Clause-6 of the operative order, Petitioner should not be permitted to sign any document other than medical case papers, and he should not be permitted to use mobile phone.

4. As far as Clause-5 of the operative part of impugned order is concerned, wherein Jail Superintendent of Taloja Central Jail is directed to arrange 2 or 3 police staff, it is clarified that Jail Superintendent shall depute two Police staff for vigilance. However, prayer for waiver of charges is rejected.

5. In view of the submission by learned counsel for Respondent-CBI, no modification is warranted in Clause-6 of order. Clause-7 stands deleted.

6. As far as Clause-9 is concerned, it is relevant to consider that Petitioner has been directed to be admitted to Leelavati Hospital,

Mumbai, for eight days for undergoing treatment. Considering the nature of ailment suffered by Petitioner, the time stipulated for visit of family members of Petitioner can be modified. It is clarified that family members of Petitioner viz. wife, minor children and mother of Petitioner are permitted to meet Petitioner for two hours in the first session and one hour in the second session. If mother of Petitioner intends to meet Petitioner, additional 30 minutes be given to mother of Petitioner. This relaxation is subject to advise of Doctors at Hospital.

7. Petitioner shall not sign any document/s except medical papers and documents relating to Court proceedings.
8. Writ Petition is disposed off.
9. All concerned to act on an authenticated copy of this order issued by Bombay High Court registry.

(PRAKASH D. NAIK, J.)

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