



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION (APL) NO. 1274 OF 2022

Dr. P Varavara Rao

... Applicant

V/s.

National Investigation Agency And Anr.

... Respondents

Mr. R. Sathyanarayanan a/w Mr. Neeraj Yadav, Adv. Susan Abhram, Ms. Deepa Punjani i/b Mr. A. R. Sathyanarayanan for Applicant.

Mr. Sandesh Patil a/w Mr. Chintan Shah, Mr. Shrikant Sonkawade for Respondent No.1-NIA.

Mr. H. J. Dedhia, APP for Respondent No.2-State.

**CORAM : A.S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 23rd OCTOBER, 2023.

PC. :

1) By the present Application under Section 482 of the Cr.P.C., Applicant/original accused No.6 has impugned Order dated 23rd September, 2022 passed below Exh-841 in NIA Special Case No. 414 of 2020, rejecting his Application seeking permission to go and stay at Hyderabad for a period of three months for undergoing cataract surgery of his both eyes.

2) Mr. Sathyanarayanan, learned Advocate for Applicant submitted that, Applicant is aged about 81 years and is having cataract in both his eyes. The Applicant has been directed to be released on medical bail by the Hon'ble Apex Court by its Order dated 10th August, 2022. That, in pursuance of the said Order, the trial Court has imposed certain

conditions upon the Applicant while releasing him on bail. Condition No.

(b) imposed upon Applicant reads as under :

“b. It shall be the conditions of bail that :

- i. The appellant shall not leave the area of Greater Mumbai without the express permission from the Trial Court.
- ii. The appellant shall not in any way misuse his liberty nor shall he get in touch with any of the witnesses or try to influence the course of investigation.

2.1) He submitted that, as the Applicant wanted to undergo the cataract surgery, he filed the said Applicant below Exh-841 which has been rejected by the trial Court by its impugned Order dated 23rd September, 2022.

3) In view of the deliberation took place in the Court on earlier occasion, Mr. Sathyanarayanan submitted that, the grand daughter of the Applicant is an Ophthalmologist and is practicing at Hyderabad. Due to it, the Applicant will get medical treatment at a very reasonable cost and need not have to spend or incur higher amount as is required at Mumbai. He submitted that, instead of three months, if the condition No.(b) is modified for the time being, the Applicant will go to Hyderabad, perform surgery of his one eye and will return to Mumbai within a period of ten days. That, he will not seek extension of time for the same. That, the Applicant will undergo surgery for one eye at one point of time and after the specialist advises, he will again undergo surgery of the other eye. He therefore prayed

that, the said condition may be waived and/or modified accordingly for a period of atleast ten days.

4) Mr. Patil, learned counsel appearing for Respondent No.1-NIA on instructions submitted that, according to the Respondent the cataract surgery may not take more than one day and the said condition may be waived at the most for a period of three days.

5) We have perused the record. It is an admitted fact on record that, the Applicant as of today is 81 years of age and is suffering from age related ailments. He has been advised to undergo cataract surgery of both the eyes. As submitted by Mr. Sathyanarayanan, the Applicant presently will undergo surgery of one eye at Hyderabad at either LV Prasad Eye Institute or Sarojini Devi Government Eye Hospital at Hyderabad, depending on the availability of the concerned specialist.

The Applicant is advised to undergo cataract surgery is not disputed by the Respondent No.1-NIA.

6) As noted earlier, it is the case of the Applicant that, for want of necessary financial assistance, he is unable perform surgery at Mumbai and if the said surgery is performed at Hyderabad, it will be less expensive to him as his grand-daughter is an Ophthalmologist.

In view of the above, we are inclined to waive the said condition for a period of one week from the date of the uploading of the present Order on the official website of the High Court at Mumbai.

7) Hence the following Order :

- (i) Applicant is permitted to travel to Hyderabad for undergoing cataract surgery for a period of one week.
- (ii) Applicant shall reside at the address mentioned in the cause title of the Application.
- (iii) Applicant will return back to Mumbai within a period of 7 days from the date of his departure from Mumbai.
- (iv) Before leaving Mumbai, the Applicant shall inform the date so fixed or appointment given by the concerned Doctor to him, to the Respondent No.1-NIA in writing.
- (v) Applicant will report to Respondent No.1-NIA in writing, as soon as he returns to Mumbai.
- (vi) Rest of the conditions imposed by the Hon'ble Supreme Court by its Orders dated 10th August, 2023 and 17th August, 2022 are maintained.
- (vii) Applicant is at liberty to file a fresh Application for undergoing cataract surgery of his other eye, before the trial Court, after he gets the appointment or advise from the concerned specialist.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)