



A-1228-2023

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION NO. 1228 OF 2023

IN CRIMINAL APPEAL NO. 593 OF 2023

(Sudhakar Omkar Bunde Vs. State of Maharashtra & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri R.L. Khapre, Senior Advocate with Shri A.J. Mirza,
Counsel for the applicant.

Shri A.V. Palshikar, Additional Government Pleader for
non-applicant no.1.

Ms Sonali Saware, Counsel for non-applicant no.2.

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CORAM : ANIL L. PANSARE, J.
DECEMBER 11, 2023.

On 5/12/2023, the following order was
passed :

"Heard.

The applicant is seeking suspension of sentence imposed by the Special Court vide its judgment and order dated 19.08.2023 in Special Case No. 65/2019, thereby convicting the applicant for the offences punishable under Sections 354 and 354A of the Indian Penal Code, 1860 and Section 10 of the Protection of Children From Sexual Offences Act, 2012. The maximum punishment awarded to the applicant is rigorous imprisonment for five years.

The learned Senior Counsel fairly submits the earlier application of the applicant has been rejected. He further submits that he will restrict his prayer to release the applicant on temporary bail for 3-4 months on the ground that the applicant is admitted in Medical College and Hospital, Nagpur to undergo bye-pass surgery. The applicant is 56 years old.

In my view, to consider the request, it will be necessary to get the report from the Superintendent of Jail concerned as also the doctor of the Cardiology Department who will be performing the surgery, as to whether the applicant will require special attention post surgery and whether such an attention can be not provided in the jail. The Superintendent of Jail as also the doctor concerned are at liberty to put forth in the report the other relevant information that would help this Court to take logical view in the matter. The report be filed positively before the next date.

Stand over to 11.12.2023.

The parties shall act on authenticated copy of the order. Registry to ensure that the reports are received before the returnable date.”

2] In compliance to the aforesaid order, the learned Additional Public Prosecutor has placed on record the report issued by the Professor and Head, Department of Cardiology, Government Medical College, Nagpur, which reads as under :

“1. The said patient is admitted in CVTS ward under Dr. Satish das for bypass surgery for his heart ailment which is to be done in coming week.

2. After surgery he will need recuperation for two months for wound healing and physiotherapy & frequent visits to Surgeon.

3. Such attention can not be provided in jail hospital which has only primary health facilities.”

3] The report of the Medical Officer, District Prison, Akola dated 9/12/2023 also supports the aforesaid findings in the sense the Medical Officer has

stated that post surgery treatment is not available in the prison.

4] Considering the ailment and medical report issued by the Professor and Head, Department of Cardiology, Government Medical College, Nagpur, it appears to me that a lenient view ought to be taken in the matter as regards granting bail for three months from today but upon certain conditions. The order thus follows :

ORDER

- i] The application is partly allowed.
- ii] For the purpose shown in the application, which is reflected in the report dated 8/12/2023 issued by the Professor and Head, Department of Cardiology, Government Medical College, Nagpur, the applicant be released on bail upon furnishing P.R. bond in the sum of Rs.50,000/- (rupees fifty thousand) with one or two sureties in the like amount for a period of three months from today, i.e., up to 12/3/2024.
- iii] The applicant shall, within four days of release, admit himself in the Government Medical College, Nagpur. The Professor and Head, Department of Cardiology, Government Medical College, Nagpur is requested to take immediate steps for treatment of ailment of the applicant and perform necessary surgery as per protocol so that the applicant can surrender before the Superintendent of Jail, Akola as directed by this Court.

iv] The applicant shall furnish to the Investigating Officer his mobile number or of the concerned person to whom the Investigating Officer should contact for the purpose of knowing the status of the applicant.

v] Stand over to 13/3/2024 for further consideration.

(ANIL L. PANSARE, J.)

Sumit