

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.160 OF 2024
IN
CRIMINAL BAIL APPLICATION NO.3637 OF 2022**

Ajay alias Golden Ramdas Gaikwad	]	Applicant
Vs.		
State of Maharashtra	]	Respondent

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Mr. Satyam H. Nimbalkar a/w Mr. Rushikesh Kamble a/w Mr. Abhishek Arote, for Applicant.

Ms. Anamika Malhotra, A.P.P, for Respondent – State.

Mr. V.A. Takale, A.P.I, Bhujinj Police Station.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 6th FEBRUARY, 2024.

P.C.

1. Heard learned Counsel for the applicant and the learned A.P.P.

2. The applicant is being prosecuted by Bhujinj Police Station, District. Satara vide C.R. No.0004 of 2021 for the offences punishable under sections 302, 307, 364, 120B, 396, 201 r/w 34 of

the Indian Penal Code and Sections 3 (1) (i), (ii), 3 (2) and 3 (4) of the Maharashtra Control of Organized Crime Act, 1999.

3. Learned Counsel prays for temporary bail to avail medical treatment, especially to undergo hip replacement surgery in respect of which prisoners Medical report dated 5th February, 2024 is tendered on record which was issued by the Medical Officer, Kolhapur Central Prison, Kolhapur. Clauses 7, 10,11,12, 13 to 16 of the same are reproduced below;

“07] Past illness/accident/operations (if any): As per the history given by the patient himself during his admission at this prison, he has history of old trauma with pain in both hip since one year joints MRI of both hip joints has done at Gaurishankar Diagnostic and Research Centre Pvt Ltd., Satara on 05/06/2022. It shows that avascular necrosis of heads of both the femoral bones, right femoral head stage 3 ficat and ariet classification and left femoral head stage 2. During the course and treatment at Hardikar Hospital Pune he was diagnosed as Covid 19 +ve on 14/09/2020. Hence his operative procedure is postponed and he has been asked to come after three week priorly done Covid 19 RTPCR test comes negative then he will be posted for surgery.

He was admitted at Hardikar Hospital Pune for the B/L AVN of hip on 12.09.2020 and discharged on 14/09.2020. Due to Covid 19 positive report.

10. Clinical diagnosis : He has sent to Seva Hospital Kolhapur on 08/06/2021, and to CPRH on 20/07/2021, 17/12/2021, 03/01/2022, 08/01/2022 for further treatment for his physical complaints.

Due to Covid 19 on 08/06/2021, 20/07/2022 at Seva Hospital there was no Orthopedician at Seva Hospital, Bawada, Kolhapur.

He sent at CPRH on 17/12/2021. He was seen by orthopedician of CPRH and said that he has difficulty in sitting and changing position with pain. He gave medicine Tab Diclofenac 1-0-1, Tab Bplex 0-0-1, tab Vit C 1-0-0 tab tab Ondem 0-1-0.

On 03/01/2022 he was seen by lecturer of Orthopedician Dr. Rahul of CPRH, Kolhapur. He had same complaints. He advised for hip replacement treatment. For the treatment facility is not available in CPRH Kolhapur, it needs to be referred to higher centre for the same.

On 08/01/2022, the CPRH Kolhapur referred him at higher centre at J.J. Hospital Mumbai or Sassoon Hospital, Pune for B/L Total Hip Replacement.

On 26/03/2022, he has sent to Sassoon Hospital, Pune for further treatment. As per CPRH referral letter and he is advised: avoid floor level activities, avoid Indian toilet, recommended toilet chair & physiotherapy, hip range exercises, hip and knee strengthening, and medication.

The said prisoner seen regularly by visiting Orthopedician of CPRH and said that he has difficulty

in sitting and changing position. He got treatment & orthopedic exercise advised by visiting expert medical officer from CPRH, Kolhapur.

**11. Medical facilities available in prison hospital:-
(Whichever is available the same will be tick marked)**

1.	Multipara Monitor	-	2	ECG Machine	Yes
3.	Gulcometer	Yes	4	Liver Function Test	-
5.	Sputum Exam	-	6	Urine Test	-
7.	Dengue Rapid Test	-	8	Malaria Rapid Test	-
9.	X-Ray Facility	-	10	Dental Services	Yes
11.	Renal Function Test	-	12	Nebulisation	Yes
13.	Proctoscopy	-	14	ICTC lab for HIV	Yes
15.	General Ward	Yes	16	Isolation Ward	Yes
17.	Psychiatric Ward	Yes	18	In House Ambulance Service	Yes
19.	Prison Ward	Yes	20	Emergency Kit with Oxygen	Yes

12. Treatment given: He is on regular treatment as advised by the experts from Govt. Sassoon Hospital, Pune & CPR hospital, Kolhapur.

13. Medical advice (if any): He is on medical line of management advised by Govt. Sassoon Hospital, Pune.

16) Opinion of medical officer qua sr. No.1: Patient has above mentioned illness and he is on regular treatment advised by the experts from Govt. Sassoon Hospital, Pune. He is regularly treated in this prison hospital for all his ailments but not responding properly to oral and local medicines, may needs urgent surgical intervention.

4. The Hon'ble Supreme Court in the latest judgment in the case of **Satyendar Kumar Jain Vs. Directorate of Enforcement, 2023 SCC Online, SC 686** while dealing with a similar application for grant of interim bail on medical ground observed that a citizen has a right to take treatment of his choice, at his own expenses, in a private hospital. The Hon'ble Supreme Court has, therefore, deemed it appropriate to release the applicant on interim bail on medical grounds for a limited period of six weeks.

5. Considering the nature of the ailment and the surgery required to be conducted and also in light of the fact of right of the prisoner to get treatment of his choice even from a private medical institution, applicant needs to be released temporarily in order to get the treatment as above.

6. Needless to state that all the expenses of admission in the Hospital, surgery and post operative medication shall be borne by the applicant himself.

7. Now, to the order;

: ORDER :

(a) The applicant – Ajay alias Golden Ramdas Gaikwad be released on temporary bail on medical ground till 10th May, 2024 for the purpose of undergoing hip surgery, on executing a PR bond in the sum of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;

(b) The applicant shall intimate his date of admission for surgery in the Hospital, date of surgery as well as his approximate duration in the Hospital as an indoor patient, to the Investigating Officer and the trial Court;

(c) The applicant shall not leave jurisdiction of the Pune District Court until his discharge;

(d) The applicant shall furnish his contact details, permanent residential address to the Investigating officer and to the trial Court;

- (e) The applicant shall surrender his passport, if any, to the Investigating officer. If the applicant does not possess a passport, the applicant shall file an affidavit before the trial Court;
- (f) The applicant shall immediately return to the prison after his discharge from the Hospital and as per medical advice.
8. In case of breach of any of the conditions, temporary bail granted to the applicant on medical ground shall stand cancelled automatically.
9. Interim Application stands disposed of.
10. List Bail Application on 10th June, 2024.

[PRITHVIRAJ K. CHAVAN, J.]