IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.184 OF 2024
WITH
INTERIM APPLICATION NO.400 OF 2024
WITH
INTERIM APPLICATION (ST.) NO.4812 OF 2024

Amar Sadhuram Mulchandani ...Applicant
vs.
Directorate of Enforcement and Another ...Respondents

Mr. Karan Kadam a/w. Mr. Sudhnva Bedekar i/b. Mr. Sarfaraz Shaikh, for the Applicant.
Mr. H.S. Venegaonkar a/w. Mr. Aayush Kedia, for Respdt. No. 1- ED.
Mr. S.R. Agarkar, APP for the State.
Mr. Ketan Gupta a/w. Mr. Jairam Chandnani, Mr. M.A. Memon, Mr. Dhwani Mody i/b. Lexim Associates, for the Intervener in IA No. 400 of 2024.
Mr. Monish Bhatia a/w. Ms. Karishma Kachhila, Mr. Vikrant Sukhwani and Sony Panjwani for the Intervener in IA (St.) No. 4812 of 2024.

CORAM : N. J. JAMADAR, J.
RESERVED ON : MARCH 4, 2024
PRONOUNCED ON : MARCH 11, 2024

ORDER

1. The applicant, who is arraigned in ECIR/MBZO-II/10/2021 registered on 31st March, 2021 by the Directorate of Enforcement for having committed an offence punishable under section 4 of the Prevention of Money-Laundering Act, 2002 (PMLA) on the basis of a predicate offence bearing C.R. No. 163 of 2018 registered with Vimantal police station, Pune, has preferred this application for bail on medical ground.

Facts :-

2. Since the application for bail is premised on an assertion that the applicant is both sick and infirm and, therefore, covered by the first proviso to section 45 of PMLA, a detailed reference to the facts is not warranted. Suffice it to note that on the strength of above ECIR/MBZO-II/10/2021, the respondent No. 1 conducted raids at the premises of the applicant, followed by multiple summons. The applicant preferred Writ Petition No. 612 of 2023, seeking to quash ECIR/MBZO-II/10/2021. During the pendency of the said petition, the applicant alleges, he was arrested on 1st July, 2023 in flagrant violation of the mandate contained in section 19 of PMLA.

3. The respondent No. 1, in turn, alleges while the applicant was the Chairman of Seva Vikas Cooperative Bank from 1997 to 2003 and 2009 to 2020, the applicant indulged in the offence of money laundering in generation, acquisition and layering of proceeds of crime to the tune of Rs. 429.57 Crores.

4. In the instant application, it is averred that the health condition of the applicant has remained perilous for last several years. He is a known case of severe diabetes mellitus and heart disease. Post arrest, the health of the applicant has deteriorated

severely. Adverting to the reports of medical examination, diagnosis and the treatment made available to him at the prison hospital and Sir J.J. Group of Hospitals (J.J. Hospital), the applicant avers that there are a number of shortcomings in the treatment made available to him and his health has further deteriorated over the past few months. As the applicant can be said to be both sick and infirm, the applicant deserves to be enlarged on bail.

5. An affidavit in reply is filed on behalf of the respondent No. 1 controverting the assertions in the application. The substance of the resistance put forth by the respondent No. 1 is that the condition of the applicant is not such that he deserves to be released on bail. Nor the applicant suffers from such ailments which can not be treated at the Government Hospitals. It is denied that the applicant can be termed as sick or infirm.

6. Shrichand Aswani and Dhanraj Aswani have filed Intervention Applications, being Interim Application No. 4812 of 2024 and 400 of 2024, respectively, seeking to oppose the grant of bail to the applicant.

Background :-

7. When the application was first listed before the Court on 16th January, 2024, the Superintendent, Central Prison, Mumbai was directed to submit a report regarding medical condition of the applicant. In the report dated 22nd January, 2024, the Chief Medical Officer, Mumbai Central Prison described the then health status of the applicant as under:-

> 14] **Present Health Status:** Patient has been following up at Sir JJ Hospital and has been given Anti-VEGF injection in Left eye once at Sir J.J. Hospital however he continues to complain of progressive diminution of vision and he continues to suffer from significant wasting and weakness of his thigh and calf muscles on both sides and also due to diminished sensation over leg and due to poor balance he has been walking with support, he has to constantly depend on fellow inmate's help for getting up or other activities. He also suffers from nausea, vomiting, indigestion and pain in right side of abdomen.

8. By an order dated 30th January, 2024 the Dean of J.J. Hospital was requested to submit a report to the Court about the health status of the applicant, the prognosis of the diseases, line of treatment and likely time required for the same. Pursuant to the aforesaid order, a team comprising Ophthalmologist, Neurologist and Physicians at Sir J.J. Hospital has examined the applicant and submitted a report, a reference to which would be made a little later. By the said order dated 30th January, 2024 the applicant was also permitted to have treatment at Krishna Eye Centre, Parel. The

report submitted by the Administrator, Krishna Eye Centre, Parel is as under:-

> "Patient has given history that he has had Intra Vitreal anti VFEF injection and Retinal LASER in his left eye. Patient has also given history of Retinal surgery with Silicon oil fill in his right eye.
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> On examination Patient was found to have Cataract with Proliferative Diabetic Retinopathy and Macular Oedema with foveal thinning and optic nerve pallor (Advanced Diabetic eye disease) in both his eyes. Patient's vision is affected in both his eyes (right eye more than the left eye).
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> The treatment prescribed for Patient's left eye is application of ani-inflammatory eye drops 1 drop 3 times a day for 3 months and review thereafter.
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> The treatment prescribed for Patient's right eye is Cataract surgery with Silicon oil removal under Guarded Visual Prognosis. Such surgical procedure is a day care procedure generally requiring admission for 4-6 hours and post surgery follow up in OPD next day. Considering the Patient's condition he may thereafter require periodic follow up for about 4 weeks".

Submissions :-

9. I have heard Mr. Karan Kadam, the learned counsel for the applicant, Mr. H.S. Venegaonkar, learned Special Public Prosecutor , Mr. Monish Bhatia, learned counsel for the Intervener in IA (St.) No. 4812 of 2024 and Mr. Ketan Gupta, the learned counsel for the Intervener in IA No. 400 of 2024. With the assistance of the learned counsel for the parties, I have perused the material on record including the reports filed by the medical officers.

10. Mr. Karan Kadam, learned counsel for the applicant, on the

strength of the aforesaid reports strenuously urged that the applicant is definitely sick and incontrovertibly infirm. Mr. Kadam submitted that the condition of the applicant cannot be determined with reference to the aforesaid reports of Krishna Eye Centre and the medical board at J.J.Hospital only. Instead, the prognosis of the diseases which the applicant is suffering from and the steady deterioration in health can be properly gauged from the assessment of the Chief Medical Officer, Central Prison. Laying emphasis on the observations recorded by the Chief Medical Officer in his reports, Mr. Kadam would urge that precarious condition in which the applicant was, when he was discharged from Ruby Hall Clinic on 21st August, 2021, has further deteriorated over time and left the applicant completely infirm.

11. Emphasis was laid on the observations of the Chief Medical Officer in the report dated 21st November, 2023 wherein the Chief Medical Officer, Mumbai Central Prison, inter alia records that the applicant has, since admission, difficulty to walk or get up from ground. He also complained of weakness in bilateral lower limb and difficulty in walking without support. He was allowed to use wheel chair or walking stick as required by Medical Officer. He also had an episode of imbalance and minor fall in his barrack while getting up.

In the said report, the Chief Medical Officer, records that the applicant was having continuous diminution of vision, weakness and muscle wasting in bilateral lower limb with difficulty to walk without support.

12. In the further report dated 19th December, 2023 the Chief Medical Officer records that the applicant had been regularly following up with J.J. Hospital. However, the applicant has not shown much improvement with respect to his eye sight even after taking Anti VGEF injection. He continues to suffer from diminution of vision, fluctuation in levels of blood sugar, significant wasting and weakness in his calf muscles on both sides and also due to diminished senses in his leg he has been having repeated episodes of imbalance and fall, he has difficulty to stand and walk independently, and he has to constantly take help of fellow inmates for getting up and walking.

13. At this stage, it may be apposite to note the report dated 5th February, 2024 of Medical Board at J.J. Hospital. It reads as under:-

> "Patient complained of dimunition of vision in Both eyes, Right more than Left since few months. Patient is a known case of Diabetes mellitus on treatment since last 20 years.
>
> Patient had history of right eye vitrectomy surgery done elsewhere 1 year back. Patient also gives history of 2 doses of anti vegf injection given in Left eye

elsewhere, told verbally, no documents available.

On Ophthalmic examination, patient has proliferative diabetic retinopathy in both eyes due to long standing diabetes. Vision in Right eye is Hand movement close to face, status post vitrectomy with silicon oil filled globe. Vision in Left eye is 6/12p with refraction, for Left eye he has received 1 dose of injection anti VEGF at JJH on 09/12/2023. The macular oedema in Left eye is resolving on OCT Macula at present. Fundus suggestive of disc pallor in Right eye, Left eye mild cystic changes with RRP laser marks present, FR dull. Rest ocular examination findings are within normal limit.

For Right eye patient is asked to observe, nil active management required at present. Right eye guarded visual prognosis already explained. For Left eye patient was advised for 2nd dose of injection Anti VEFG on 18/01/2024 but he did not follow up with blood reports, diabetic fitness, permission letter from Jail RMO and hence was redated for injection on 29/01/2024. Patient did not follow up on mentioned date, he came on 01/02/2024.

Patient is advised to follow up with above reports and blood sugar levels under control for injection in Left eye which is a day care procedure and to continue Eyedrop Nepafenac three times per day in Left eye, Eyedrop Brimolol two times in Right eye.

On Neurlogical point of view, patient complained of tingling & paraesthesias in all four limbs with difficulty walking since 2 years. As mentioned previously, he is a known case of diabetes.

On Neurological examination, patient had sensorimotor proximodistal involvement of all four limbs (lower limbs upper limbs) with bilateral wasting of proximal muscles of lower limbs.

Patient had undergone nerve conduction studies which confirmed the clinical findings. MRI lumdosacral spine with roots and whole spine screening has been advised but not yet done.

At present, patient has been advised medication for neuropathy along with strict glycemic control and intensive physiotherapy. He requires regular follow up.

On Physian's examination, Blood pressure – 140/80 mm og Hg, pulse rate – 86 beats/min, HGT- 112 mg/dl, the above parameters are within physiologically acceptable limits. No other significant abnormalities in clinical examination of the cardiovascular,

> respiratory and per abdominal examination.
>
> As per above examination and review of records patient is on optimal medical care and is advised to continue the on going anti diabetic, antihypertensive and antiplatelet with cardiac medications that have been advised previously.
>
> In view of chronicity of the condition, patient is advised to follow up in respective specialities as advised on regular intervals".

14. Mr. Kadam submitted that the aforesaid medical condition of the applicant leaves no manner of doubt that the applicant is in such a precarious state that he satisfies the criteria of sick and infirm person, who deserve to be treated in a different manner in the matter of grant of bail despite the stringent conditions stipulated by section 45 of the PMLA.

15. Mr. Kadam submitted that it is not the law that the proviso to section 45 of the PMLA can be resorted to only when the prisoner is breathing his last breaths or there is an apprehension that he may not survive. The proviso is required to be interpreted in a purposive manner so as to advance the object of legislature in prescribing a considerate approach towards person accused of the offence under PMLA, who is a woman or child below 16 years of age and sick or infirm. Therefore, according to Mr. Kadam, the expression 'sick' or 'infirm' can not be interpreted in too rigid a manner so as to deprive the benefit of the proviso to a legitimate claimant like the applicant.

16. To bolster up this submission, Mr. Kadam placed a very strong reliance on the judgment of a learned single Judge of Delhi High Court in the case of **Kewal Krishan Kumar vs. Enforcement Directorate**[1]. In the said case, the learned single Judge after adverting to the provisions of section 45 of the PMLA enunciated, inter alia, that a person, though not 'sick', may be 'infirm' and still entitled to seek the benefit of exception in the proviso to section 45(1) of PMLA. The observations in paragraphs 46 and 47 read as under:-

> 46] Since 'sick' and 'infirm' are separated by 'or', consequently, a person who, though, not sick but infirm would still be entitled to seek the benefit of the exception in the proviso to section 45(1) PMLA and vice-versa.
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> 47] Mere old age does not make a person 'infirm' to fall within section 45(1) proviso. Infirmity is defined as not something that is only relatable to age but must consist of a disability which incapacitates a person to perform ordinary routine activities on a day-to-day basis.

17. It would be contextually relevant to note that in the facts of the case, the learned single Judge, declined to extend the benefit of the proviso to the applicant therein on the premise that, he was not suffering from life threatening ailments and could be treated with the medical facilities available in jail.

1 2023 SCC OnLine Del 1547.

18. In the case of **Vijay Agrawal Through Parokar vs. Directorate of Enforcement**[2] another learned single Judge of Delhi High Court, observed as under:-

> 14] Howsoever serious the offence may be, the health condition of a human being is paramount. The custody during the period of investigation cannot be termed to be punitive in nature. The health concern of a person in custody has to be taken care of by the State and keenly watched by the judiciary. Every person has a right to get himself adequately and effectively medically treated.
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> 15] Article 21 of the Constitution of India not only given a fundamental right to live but the right to live with dignity. Right to live a healthy life is also one of the facets of fundamental rights granted by the Constitution of this Country. The consistent view has been taken that if sufficient treatment is available in the jail then preferably the same should be provided to the prisoners. This Court firmly believes that a person in custody suffering from serious ailment should be given an opportunity to have the adequate and effective medical treatment. The discretion for granting the interim bail on medical ground may not be exercised only at a stage when the person is breathing last or is on the position that he may not survive.

19. Mr. Kadam invited attention of the Court to an order passed by the Division Bench of this Court in the case of **Pragya Singh Chandrapalsingh Thakur vs. State of Maharashtra Through National Investigating Agency (MA), New Delhi**[3] wherein the Division Bench had, inter alia, noted the fact that the applicant therein was suffering from breast cancer and the treatment which

2 2022 SCC OnLine Del 4494.
3 2017 SCC OnLine Bom 493.

was then provided to the applicant was in Ayurvedic hospital and that was an additional ground for releasing the appellant on bail.

20. In the case of **Devki Nandan Garg vs. Directorate of Enforcement**[4]**,** a learned single Judge of the Delhi High Court was persuaded to grant bail to the applicant therein inter alia, observing that once a person falls within the proviso of section 45(1), he need not satisfy the twin conditions under section 45(1). In the said case, the applicant therein was suffering from various ailments. One kidney was dead and the other kidney was functioning at 30% capacity. He required constant monitoring, otherwise his fluctuations could have caused death.

21. Mr. Kadam submitted that in the aforesaid cases the Courts have taken a view which is in accord with the constitutional value of protection of life. In the case at hand, according to Mr. Kadam, as the applicant had repeated incidents of fall in prison, his vision is considerably diminished, he is unable to follow the daily pursuits without the assistance of fellow inmates, the applicant deserves to be released on bail by invoking the proviso to section 45(1) of PMLA. If not regular bail, the applicant be released on bail for a limited period, on medical grounds.

4 2022 SCC OnLine Del 3086.

22. Mr. Venegaonkar, the learned Special Public Prosecutor submitted that major ailments which the applicant is suffering from are diabetic retinopathy and neuropathy which are essentially life style diseases. Mr. Venegaonkar urged that it is not every type of ailment which justifies the exercise of discretion under the first proviso to 45(1) of the PMLA. It is the degree and the severity of the ailment which is of paramount consideration. Applying this test to the facts of the case, according to Mr. Venegaonkar, there is no immediate requirement of release on bail.

23. It was further submitted that the applicant has been provided all the requisite treatment for the ailments which the applicant is suffering from. The applicant is not suffering from such ailments which can not be treated at a Government Hospital. Therefore, no case for the release of the applicant on bail on medical grounds has been made out.

24. Mr. Venegaonkar, submitted that the Supreme Court has not approved the release of accused on bail, where a case for immediate release in the context of medical condition of the prisoner has not been satisfactorily made out. Attention of the Court was invited to the decision of the Supreme Court in the case of **State of U.P. vs.**

Gayatri Prasad Prajapati[5]**,** wherein, in the facts of the said case, the Supreme Court held that when the respondent therein was being given treatment in the super- speciality hospital, i.e., S.G.P.G.I.M.S. as recommended by K.G.M.U., the Court failed to see as to what were the shortcomings in the medical treatment offered to respondent, which could have been the basis for grant of interim bail on medical ground. The Supreme Court observed that, no satisfaction was recorded by the High Court that treatment offered to respondent was not adequate and he required any further treatment by any particular medical institute for which it was necessary to release the respondent on interim bail on medical grounds.

25. Mr. Venegonakar, also placed reliance on the judgment in the case of **Pawan @ Tamatar vs. Ram Prakash Pandey and Another**[6]**.** In the said case the Supreme Court adverted to two circumstances. One, there was no contention that the applicant therein still required medical treatment. Two, it was not stated that the applicant therein had not received proper medical treatment from the jail authorities.

5 2020 SCC OnLine SC 843.
6 (2002) 9 Supreme Court Cases 166.

26. In the case of **The State of Maharashtra vs. Kapildevsingh Guptarsingh**[7] on which reliance was placed by Mr. Venegaonkar, a learned single Judge of this Court has interfered with the order of grant of interim bail by the Metropolitan Magistrate on the next day of arrest of the accused therein. Referring to the provisions to section 437 of the Code, this Court observed that while exercising the discretionary power to release the accused on bail by invoking the proviso to section 437, the Court should exhibit caution and circumspection. It is not every sickness or infirmity that entitles a person to be released on bail. The circumstances of the case and totality of its effect, the seriousness of the sickness or infirmity, the availability of necessary medical treatment and reasonable amenities in the Prison or Government Hospital have also to be borne in mind. In the said case, the Panel of the Department of Cardiology of J.J. Group of Hospital had noted that the respondent therein was suffering from essential hypertension with diabetes mellitus and necessary treatment for the same was being provided to the respondent in the said hospital. In that backdrop, this Court had quashed the order of bail.

27. Mr. Ketan Gupta, the learned counsel for the Intervener in IA No. 400 of 2024, submitted that the condition of the applicant is not

7 1994 SCC OnLine Bom 473.

such that he can be said to be sick or infirm. No special circumstance has been brought on record to justify a different treatment to the applicant than other fellow prisoners. Mr. Ketan Gupta placed reliance on the judgment of the Supreme court in the case of **Saumya Chaurasia vs. Directorate of Enforcement**[8], wherein the Supreme Court postulated that the grant of bail by invoking proviso to section 45(1) of PMLA is discretionary. It could not be construed as a mandatory or obligatory provision once a person is said to fall within either of the categories. It was in terms observed that, in essence, Courts should exercise the discretion judiciously using their prudence, while granting the benefit of the first proviso to Section 45(1) PMLA to the category of persons mentioned therein. The extent of involvement of the persons falling in such category in the alleged offences, the nature of evidence collected by the investigating agency would be material considerations.

28. Mr. Monish Bhatia, the learned counsel for the Intervener in IA (St.) No. 4812 of 2024, placed reliance on the decision of the Delhi High Court in the case of **Sameer Mahandru vs. Directorate of Enforcement**[9], wherein the Delhi High Court declined to release the applicant on bail opining that the then medical condition of the

8 2023 SCC OnLine SC 1674.
9 2023 SCC OnLine Del 6680.

accused therein did not require hospitalization. The learned single Judge extensively referred to the observations of the Delhi High Court in **Kewal Krishan Kumar** (supra).

Consideration :-

29. The legal position as regards the grant of bail in matters where the person is accused of an offence punishable under PMLA is fairly crystalized. Sub section (1) of Section 45 of PMLA contains an interdict against the grant of bail to a person accused of an offence punishable under PMLA, unless the twin test envisaged thereby, namely, opportunity to oppose the prayer for bail and satisfaction of the Court that there are reasonable grounds for believing that the applicant is not guilty of such offence and he is not likely to commit any offence while on bail is recorded. The first proviso however empowers the Court to release the person on bail who is under 16 years or is a woman or is sick or infirm. The limitations in the matter of granting bail under section 45(1) are in addition to the restrictions contained in the Code or any other law.

30. On its plain reading, it is abundantly clear that grant of bail by invoking the first proviso is in the discretion of the Court. However, as is the case with exercise of discretion in any matter, such

discretion is required to be exercised in a judicious manner. The Court must pose unto itself the question as to whether the person seeking bail falls within any of the exceptional categories and, if so, whether in the totality of the circumstances, the exercise of discretion would be justifiable.

31. Evidently, the Parliament has used the words, 'sick' or 'infirm' disjunctively. A person may be sick and infirm. A person can be 'infirm' without being 'sick'. However, it is not the every kind of sickness which would justify the grant of bail lest the object behind prescribing stringent conditions in the matter of grant of bail would be frustrated if a person can be released on bail on the ground of sickness *dehors* the degree of seriousness of the ailment. It is in this context, the reports of the experts assist the Court in forming an opinion as to whether the person claiming bail is suffering from such sickness as to warrant his release on bail.

32. Ordinarily, the consideration that the sickness is such that it cannot be adequately or effectively treated in the prison hospital /the medical facility attached to the prison or Government hospital, weighs with the Court. The degree of sickness also bears upon the exercise of the discretion. If it is a life threatening disease, the

Court would be well advised to exercise its discretion. Conversely, it cannot be said that the proviso cannot be resorted to in the case of sickness which is not life threatening. Essentially, the question of sickness, or for that matter infirmity, is rooted in the thickets of facts of the given case.

33. Infirmity, in turn, may arise from a variety of causes. Infirmity may not necessarily be on account of sickness. The Parliament has therefore advisedly used the words ‘sick’ or ‘infirm’ disjunctively. The provision is required to be construed in such a manner as to advance the guarantee of right to life under Article 21. A prisoner cannot be left in the lurch even when he is suffering from a serious ailment for the only reason that his personal liberty is deprived by operation of law. A prisoner has right to have treatment to preserve his health. A prisoner is entitled to the dignity he deserves. It is the obligation of State to provide requisite treatment to a prisoner so as to preserve and protect his health.

34. On the aforesaid touchstone, reverting to the facts of the case, it is imperative to note that the applicant primarily suffers from diabetic retinopathy resulting in diminished vision in both eyes and nueropathy. Undoubtedly, the Chief Medical Officer has referred to

difficulties which the applicant faces in prison in his daily pursuit. To state that the applicant is not sick would be audacious. However, the pivotal question is whether the sickness is of such degree as to warrant the release of the applicant on bail ?

35. For an answer, in my considered view, the Court is required to be guided by the opinion of the experts constituted by the Dean, Sir J.J.Hospital. The report dated 5th February, 2024, extracted above, indicates that the applicant has proliferative diabetic retinopathy in both eyes due to long standing diabetes. Vision in Right eye is to the extent of Hand movement close to face. Vision in Left eye is 6/12p with refraction. For right eye no active management was required. For left eye, the patient was advised second dose of Anti VEFG-Injection. That is a day care procedure. The applicant was to continue with eye drops, as advised.

36. Neurological examination of the applicant has revealed sensorimotor proximodistal involvement of all four limbs (lower limbs upper limbs) with bilateral wasting of proximal muscles of lower limbs. The applicant has undergone nerve conduction studies which confirmed the clinical findings. MRI lumdosacral spine with roots and whole spine screening has been advised but not yet done.

The applicant required regular follow up.

37. On physical examination of the applicant, the parameters were found within physiologically acceptable limits. No other significant abnormalities in clinical examination of the cardiovascular, respiratory and per abdominal examination, were noticed.

38. The Board opines, the applicant is on optimal medical care and is advised to continue the ongoing anti diabetic, antihypertensive and antiplatelet with cardiac medications treatments that have been advised previously. He was further advised to follow up in the respective specialties.

39. As is evident, for diabetic retinopathy, so far as right eye is concerned, Krishna Eye Center has advised cataract surgery, with Silicon oil removal under Guarded Visual Prognosis. Such surgery is a day care procedure, generally requiring admission for 4-6 hours and, post surgery, follow-up on next day. For left eye, Krishna Eye Care Centre has prescribed application of anti-inflammatory eye drops, 1 drop 3 times a day for three months. The Medical Board of at J.J. Hospital opined that the applicant needs second dose of

injection Anti VEFG, which is again a day care procedure. From ophthalmic management point of view, it appears, the applicant requires day care procedure for both the eyes.

40. As regards the neurological ailments, the Board has opined that the applicant has sensorimotor proximodistal involvement of all four limbs with bilateral wasting of proximal muscles of lower limbs. The Board opined that the patient has been advised medication for neuropathy and intensive physiotherapy. The applicant requires regular follow-up.

41. As noted above, the clinical examination did not reveal any significant abnormalities in cardiovascular, respiratory and abdominal health.

42. In the backdrop of the aforesaid assessment by the experts, on both diabetic retinopathy and diabetic neuropathy, it appears that the applicant essentially requires day care procedure and physiotherapy. It does not appear that the applicant requires an immediate surgical or other critical intervention.

43. Mr. Kadam would urge that physiotherapy facility is not

available at the prison. Therefore, as the applicant requires intensive physiotherapy, the applicant deserves bail.

44. In the light of the aforesaid evaluation by the team of experts, both at Krishna Eye Centre and Sir J.J. Group of Hospitals, in my considered view, the condition of the applicant does not appear to be such as to invoke the proviso to Section 45(1) of the PMLA Act. In the backdrop of the line of the treatment suggested by the medical professionals, the applicant can be provided requisite treatment at J.J. Hospital.

45. Mr. Kadam submitted that the treatment at J.J. Hospital depends upon the availability of the slots for diagnosis and treatment as well as the applicant being brought to the hospital on specified dates. Attention of the Court was invited to the medical records, which indicate that the scheduled tests have been postponed.

46. In the totality of the circumstances, it appears that what the applicant immediately requires is the day care procedure for both the eyes and physiotherapy. A direction for admitting the applicant in Sir J.J.Group of Hospitals for a period of two weeks to facilitate

the applicant to have treatment for diabetic retinopathy as well as diabetic neuropathy, especially the physiotherapy, would serve the purpose. It would be open for the Medical Officers at Sir J.J.Group of Hospitals to appropriately advise the Superintendent Prison, as to whether further admission of the applicant as an indoor patient beyond the said period of two weeks would be necessary from the point of view of the treatment which the applicant requires.

47. I am, therefore, not inclined to exercise the discretion in favour of the applicant to release him on bail. Instead, a direction for admission of the applicant in Sir J.J.Group of Hospitals would meet the exigency of the situation.

Hence, the following order :

ORDER

(i) The Application stands rejected.

(ii) The Superintendent, Central Prison, Mumbai is directed to take the applicant to Sir J.J.Group of Hospitals for treatment, immediately.

(iii) The Dean, Sir J.J.Group of Hospitals, is requested to admit the applicant as an indoor patient, in Sir J.J.Group of Hospitals for a period of two weeks and provide him the

requisite medical treatment, as indicated in the report of the Medical Board dated 5 February 2024, for diabetic retinopathy and neuropathy and other ailments, which the applicant may be found to be suffering from.

(iv) The applicant shall be provided intensive physiotherapy, as advised, during the said period.

(v) It would be open for the competent Medical Officer to advise the Superintendent, Central Prison, Mumbai regarding further treatment of the applicant as an indoor patient beyond the said period of two weeks, if found necessary.

(vi) After the applicant is lodged back in prison, the Superintendent, Central Prison, Mumbai shall take the applicant to Sir J.J.Group of Hospitals, as and when directed by the Medical Officer.

(vii) The Respondent No.1 –Directorate of Enforcement shall make arrangements for the necessary escort to take the applicant to Sir J.J.Group of Hospitals, as and when directed.

(viii) One of the immediate family members of the applicant is permitted to attend to the applicant while he is admitted in J.J. Hospital.

(ix) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose

of determination of the entitlement for bail under the proviso to section 45(1) of the PMLA.

(x) In view of the rejection of the Bail Application, Interim Applications also stand disposed.

(N. J. JAMADAR, J.)