

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

CRIMINAL APPEAL NO.39 OF 2024

Santosh Atmaram Shelar	...Appellant
Versus	
Union of India and Anr.	...Respondent

Mr. Siddharth Jagushte, for the Appellant.

Mr. Sandesh Patil a/w Mr. Chintan Shah and Mr. Sandeep Sadawarte,
for the Respondent No.1/NIA.

Ms. P. P. Shinde, A.P.P for the Respondent– State.

***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATE : 9th FEBRUARY 2024

P.C. :

1. By this appeal, the appellant seeks interim bail for a period of four weeks in C.R. No. RC-01/2021/NIA/MUM registered with NIA, Mumbai Branch (NIA Special Case No.1090 of 2021). The challenge is also to the order dated 15th December 2023, by which the learned Special Judge under the MCOCA/POTA/TADA/NIA and Additional Sessions Judge, Greater Mumbai, rejected the appellant's

application seeking interim bail for four weeks on medical ground i.e. on the ground of the medical condition of his daughter.

2. Learned counsel for the appellant submits that the appellant's daughter met with an accident on 14th November 2023 and was admitted in the ICU for five days, where she underwent three different surgeries i.e. Intra Medullary Nail was fixed in the left thigh using three proximal and one distal locking screw along with two proximal and one distal locking bolt. The appellant's daughter had also sustained Bicortical displaced fracture at the distal shaft of the Tibia (Ankle and lower leg). He submits that the appellant be released for a period of four weeks, to enable him to make financial arrangements, as his daughter is required to undergo few more surgeries.

3. Mr. Patil, appearing on behalf of the respondent No.1/NIA opposed the appeal. He submits that the appellant is prosecuted among other offences for the offence punishable under the Unlawful

Activities (Prevention) Act, 1967 ('UAPA'). He further submits that the appellant's daughter is aged 27 years and is a practicing advocate, who met with an accident in November 2023. He submits that three surgeries were performed on the appellant's daughter in November 2023 and that she is presently staying in Pune in a relative's flat and is being looked after by the appellant's wife and the relatives. Mr. Patil submits that if the appellant is granted interim bail, the possibility of him absconding cannot be ruled out, considering that after the murder of Mansukh Hiren, the appellant had escaped to Nepal with co-accused – Manish Soni and that the said trip was sponsored by the appellant.

4. The medical report of the appellant's daughter, which is at page 107 of the appeal, reads as under:-

“PATIENT WAS ADMITTED WITH ABOVE COMPLAINTS ALL NEEDFUL INVESTIGATION WERE DONE PATIENT ADMITTED UNDER DR SURYAWANSHI SIR UNDER WENT 1]QRIF WITH CYRUS NAILING LEFT FEMUR 2] DEBRIDMENT +1 DEGREE SUTURING LEFT KNEE 3] CRIF WITH IMIL NAILING LEFT TIBIA. BY DR. SURYAVANSHI SIR. PROCEDURE WENT UNEVENTFUL. THEN PATIENT SHIFTED TO ICU 2 PONT PCV GIVEN ON

16/11/23. REFF CALL GIVEN TO DR RAHUL PATIL SIR ADVISED AND TREATED ACCORDINGLY. PATIENT SHIFTED TO WARD. PATIENT HAS BEEN ADVISED TO UNDERGO PLASTIC SURGERY IN THE FORM OF FLAP SOS GRAFTING FOR THE LEFT ANKLE SCAB AS ADVISED BY DR DEEPAK PATIL. THE PATIENT HAS DENIED TO UNDERGO PLASTIC SURGERY. FURTHER PATIENT HAS ALSO BEEN ADVISED TO UNDERGO ARTHROSCOPIC EVALUATION SOS SURGERY FOR THE LIGAMENT INJURY AND INSTABILITY IN THE LEFT KNEE AS ADVISED BY DR SUHAIL SHEIKH. THE PATIENT HAS DENIED TO UNDERGO ARTHROSCOPIC EVALUATION AND SURGERY. TREATED IN WARD WITH IV ANTIBIOTICS; IV ANTACIDS; IV ANTIEMETICS; IV ANALGESICS AND SUPPORTIVE MEDICINES. PAIN REDUCED GRADUALLY. DRESSING AND SUTURE REMOVAL DONE ON POD # 14 WITH AAP. AFTER PATIENT HAEMODYNAMICALLY & VITALLY STABLE. PLAN FOR DISCHARGE TODAY.”

5. There is nothing to show that for lack of funds, the appellant’s daughter refused to undergo surgeries. Be that as it may, considering what is disclosed by learned Special Public Prosecutor and that the fact, that the appellant’s daughter is discharged and she is presently residing with her relatives, no ground is made out for grant of interim bail to the appellant, as prayed for, at this stage.

6. Appeal is accordingly dismissed and disposed of as such.

MANJUSHA DESHPANDE, J. *REVATI MOHITE DERE, J.*