

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1566 OF 2023

Vinay Vivek Aranha

...Applicant

vs.

The Directorate of Enforcement and Anr.

...Respondents

VISHAL
SUBHASH
PAREKAR

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VISHAL
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Mr. Aabad Ponda, Senior Advocate a/w. Mr. Mithilesh Mishra i/b.
Mr. Agastya Desai, for the Applicant.
Mr. Aayush Kedia h/f. Mr. H.S. Venegaonkar, for Respondent No. 1.
Mr. S.R. Agarkar, APP, for the Respondent/State.
Mr. N.A. Shaikh, Jailor, Talaja Central Prison.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 18, 2024

P.C.:

1. Not on board. Mentioned by way of praecipe. Taken on board.
2. Heard the learned counsel for the parties.
3. This is an application for temporary bail on medical ground arising out of ECIR/ MBZO-II/11/2021 in Special Case No. 100637 of 2023.
4. This Court had noted that the applicant suffers from "*Morbid Obesity with Systemic Hypertension with Cholelithia Sis coupled with anal fissure*". The treatment for the said ailment is not possible at the Government Hospital. The Court had directed the Superintendent, Talaja Central Prison to allow the applicant to have preliminary examination at LOC Helathcare LLP where the said treatment was available and thereupon, post examination, reports have been filed.

5. It may be expedient to note few of the orders passed by this Court. In the order dated 5th October, 2023, this Court, inter alia, noted as under:-

2] Considering the fact that the applicant suffer from Morbid Obesity with Systemic Hypertension with Cholelithia Sis coupled with anal fissure, and since the attempt to offer him treatment in the government hospital i.e. Sasoon Hospital has not yielded any results and with the current report from the Sasoon Hospital, let Mr. Mundargi obtain instructions about the line of treatment and the Hospital/a Multispeciality Hospital, where the applicant can be admitted and take treatment to deal with his ailments, which admittedly are reflected in the earlier report as well as the report submitted by the Sasoon Hospital.

3] Depending upon the report to be placed before the Court as regards the hospital, which is ready to treat him, his application for release on temporary bail for period of four weeks, to avail the said treatment shall be considered.

6. On 11th October, 2023 this Court observed as under:-

1] In terms of the order dated 05/10/2023, the learned counsel appearing for the Applicant informed the Court that the Applicant would like to undergo the procedure of bariatric surgery carried out in LOC Healthcare LLP (previously known as Laparo Obeso Centre). The multispeciality hospital is located in Sadashiv Peth, Vijay Nagar Colony, Pune and from the brochure, which is placed before me, it is apparent that it is among top three in India for Laproscopic Metabolic & Bariatric Surgeries.

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3] In the wake of the aforesaid statement, let the Superintendent, Taloja Central Prison, seek an appointment with LOC Healthcare LLP or any relative, friend, acquaintance of the patient/Applicant can also seek an appointment and intimate the same, atleast 48 hours in advance, to the Superintendent of

Taloja Central Prison, so that necessary arrangement can be made for a visit to the said hospital, located in Sadashiv Peth, Pune. Needless to state that the jail authorities shall ensure adequate security to the prisoner, while he is being taken to hospital and brought back and also his security shall be ensured at the time when he is being referred to the concerned Doctor in the hospital.

7. On 26th October, 2023 after considering the report from LOC Healthcare LLP dated 16th October, 2023, this Court noted as under:-

“The report from LOC Healthcare LLP dated 16th October, 2023 is placed before me and reading of the report discloses that approximate period of four weeks would be required for carrying out the surgical procedure. The report is taken on record.”

8. The treatment of the applicant came to be deferred as in the meanwhile, an offence was registered against the applicant. Later on the applicant came to be released on bail in the said matter.

9. Pursuant to the direction of the Court, the report dated 25th December, 2023 indicating the current medical status of the applicant was placed before the Vacation Court on 29th December, 2023.

10. The report submitted by the Superintendent, Taloja Prison on 25th December, 2023 in regard to the present health status of the applicant is as under:-

“At present condition the patient is suffering from acute gastroenteritis. Nausea and Vomiting,

Pain in abdomen, High Blood pressure, Palpitation, Giddiness Heaviness in the head, low back pain, anal fissures with bleeding occasionally”.

11. A submission was made before the Vacation Court that though the applicant was willing to bear the expenses of medical treatment, yet, the applicant cannot bear the escort charges and, therefore, the State be directed to waive the escort charges. The matter thus came to be adjourned directing the State to take instructions as regards the waiver of escort charges as well as the manner in which the applicant can be permitted to take treatment in the private hospital.

12. Today, the learned senior Advocate for the applicant, on instructions submits that the applicant is ready to bear the escort charges in addition to the expenses of the medical treatment at LOC Helathcare LLP (previously known as Laparo Obeso Centre). The learned senior advocate further submitted that minimum required escort during the period of hospitalization may be provided so that the applicant is spared of the avoidable expenses.

13. The learned counsel for respondent No. 1 submitted that having regard to the medical condition of the applicant and the fact that the applicant has nobody in the family except his parents, the respondent No. 1 may not object to the treatment of the applicant at

LOC Healthcare LLP. However, that may not be treated as a concession which would enure to the benefit of the co-accused in the said matter. The learned counsel submitted that the presence of the attendant may also be appropriately regulated.

14. The fact that the applicant requires urgent medical treatment is borne out from the material on record and the series of orders passed by this Court. The applicant is willing to have the treatment at his expenses.

15. In view of above, the applicant be taken to LOC Healthcare LLP and given treatment at the said center subject to the following conditions:-

- (i) The applicant be taken to LOC Healthcare LLP under proper escort.
- (ii) The applicant is permitted to be admitted at the said hospital for treatment for a maximum period of four weeks.
- (iii) In the event, the treatment is over before the said period, the Medical Superintendent/ Principal Medical Officer of the said hospital shall report the said fact to the Superintendent of Prison and thereupon the applicant be taken back to the prison immediately.
- (iv) During the period of hospitalization, necessary escort/ security person (s) be deputed.

(v) In fixing number of escort/ security person (s) the concerned officer may have due regard to the number of minimum person (s) required for the said purpose. However, the risk and threat perception shall be considered by the concerned officer and accordingly security person (s) be deputed.

(vi) The applicant shall bear the expenses of medical treatment and also escort/security charges.

(vii) The applicant shall not contact any of the co-accused or the prosecution witnesses or any person acquainted with the facts of the case.

(viii) Either of the parents of the applicant be permitted to attend to the applicant, subject to the norm of the hospital. However, more than one attendant shall not be permitted at a time.

(ix) Except parents of the applicant, no other person shall be permitted to meet the applicant.

(x) The applicant shall not abuse the facility of treatment at the private hospital granted to him in any manner and in case of breach of any of the conditions and abuse of the said facility, this order shall be liable to be cancelled.

All concerned to act on an authenticated copy of this order.

Application disposed.

(N. J. JAMADAR, J.)