

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4089 OF 2023

VISHAL
SUBHASH
PAREKAR

Manoharlal Agicha

...Applicant

vs.

Union of India and Anr.

...Respondents

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2024.01.17
19:07:23 +0530

Mr. Niranjan Mundargi a/w. Mr. Vikram Sutana and Mr. Mithilesh Mishra i/b. Mr. Agastya Desai, for the Applicant.

Mr. Shreeram Shirsat a/w. Mr. Shekhar Mane and Mr. Nishad Mokashi, for Respondent No. 1.

Mr. S.R. Agarkar, APP, for the Respondent/State.

Mr. Ranjeet Patil, Jailor, Mumbai Central Prison.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 17, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. By an order dated 4th January, 2024, the Superintendent, Mumbai Central Prison was directed to submit a report about the fitness of the applicant for surgical intervention. The report submitted by the Chief Medical Officer, Mumbai Central Prison indicates referral to higher center is required and the medical examination papers dated 9th January, 2024 suggest that the applicant is fit for surgery with due cardiac risk. The present health status of the applicant, in the estimation of the Chief Medical Officer, is as under:-

“Patient is being monitored and managed
symptomatically as still patient continues to

experience abdominal pain, episodes of nausea and vomiting. He has been advised to withhold antihypertensive medication in view of persistent hypotension.”

3. Mr. Mundargi, learned counsel for the applicant, submits that the applicant is ready and willing to undergo the required medical treatment at private hospital at his own expenses including the expenses required for escort. Mr. Mundargi, on instruction, submits that an undertaking to that effect would be filed.

4. Mr. Shirsat, learned counsel for respondent No. 1, fairly submitted that having regard to the age and medical condition of the applicant, respondent No. 1 does not dispute the requirement of medical treatment. However, the possibility of the medical treatment at J.J. Hospital, Mumbai needs to be explored.

5. The certificate of Chief Medical Officer, Mumbai Central Prison indicates that the emergent surgical intervention is required. In the totality of the circumstances, especially having regard to the age of the applicant and the condition reported by the Chief Medical Officer, it may be expedient to allow the applicant to have medical treatment at Holy Family Hospital, Bandra.

6. The application stands allowed in terms of prayer clause (b).
7. The applicant shall file an undertaking to bear the expenses of the medical treatment as well as pay the escort charges by tomorrow. The Superintendent, Mumbai Central Prison is requested to facilitate the execution of an undertaking by the applicant.
8. The Superintendent, Mumbai Central Prison is directed to take the applicant to Holy Family Hospital, Bandra for treatment.
9. The concerned police officer shall provide necessary escort for taking the applicant to Holy Family Hospital, Bandra and also during the stay of the applicant in the said hospital.
10. The applicant shall bear the expenses of medical treatment and escort.
11. The applicant is allowed to be kept in Holy Family Hospital, Bandra for the medical treatment for a period of two weeks from 18th January, 2024.
12. The applicant shall not contact any of the co-accused or any of

the prosecution witnesses or persons acquainted with the facts of the case.

13. Any of of Mr. Gaurav Manoharlal Agicha, son of the applicant, Mrs. Nanda Manoharlal Agicha, wife of the applicant, and Ms. Simran Rishi Lehatri, the daughter of the applicant, is permitted to attend to the applicant during the period of hospitalization. It is clarified that there should be only one attendant at a time.

Application disposed.

(N. J. JAMADAR, J.)