

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

**INTERIM APPLICATION NO. 30 OF 2024
IN
CRIMINAL APPEAL NO. 527 OF 2022**

Rohit Rajendra Sawant	..Applicant
Versus	
The State of Maharashtra	..Respondent

Ms. Arwa Lunawadawala i/b. Tanmay Vispute for Applicant.

Smt. M. R. Tidke, APP for State/Respondent.

Ms. Ameeta Kuttikrishnan, (appointed advocate) for the Respondent No.2

**CORAM : SARANG V. KOTWAL, J.
DATE : 29 AUGUST 2024**

PC :

1. This is an application sent through the Jail praying for the Applicant's release on bail on medical grounds. The applicant has prayed for regular bail which means bail till decision of his appeal pending before this Court.

2. The applicant was convicted by the Special Judge, Ratnagiri in POCSO Special Case No.1 of 2017 arising out of the

C.R.No.252 of 2016 at Khed police station, District Ratnagiri, under sections 376D, 354A, 450, 352 and 506(I) of the I.P.C. and under sections 6 and 8 of the Protection of Children from Sexual Offences Act, 2012. The major sentence imposed on the applicant was R.I. for 20 years. At present, the applicant is undergoing his sentence at Nashik Road Central prison since 07.06.2022.

3. Heard Ms. Arwa Lunawadawala, learned counsel for the applicant, Smt. Tidke, learned APP for the State and Ms. Ameeta Kuttikrishnan, learned counsel for the Respondent No.2.

4. The applicant's case is that, he was suffering from hernia. It is a chronic ailment and he is suffering from it for many years. He needs medical attention. I had asked the learned APP to file an affidavit. Today, the affidavit is tendered in the Court. It is mentioned in the affidavit that the applicant is suffering from hernia since 2018. The Chief Medical Officer of the Prison hospital sent him to the Civil hospital, Nashik for medical treatment on 28.04.2024. The doctor of that hospital had called the applicant for follow up. The jail authorities sent a requisition for the police

guards for taking him to the civil hospital. But the police escorts were not available and, therefore, he was not sent to the civil hospital. In the meantime, the applicant was given medical facilities in the prison hospital. He was given the treatment which was available in the prison hospital. However, the Doctor had suggested that, he should go for surgery. The affidavit mentions that, there is neither a Surgeon nor operation theater in the prison hospital. After this Court directed the learned APP to file status report, vide the order dated 23.07.2024, the applicant was sent to BYTICO center for MRI on 09.08.2024. The report was received on 13.08.2024. After that, the prison CMO sent requisitions for police guards to take him to the civil hospital on 12, 13, 14, 16, 17 and 19 of August 2024, but the police guards were not provided. Therefore, the applicant was not sent to the civil hospital. In the meantime, the Doctor of the prison hospital continued to give him available treatment in the prison hospital. On 20.08.2024 and 21.08.2024 the applicant was taken to the civil hospital, Nashik. The concerned Medical Officer referred him to Urologist for the further treatment on 22.08.2024. The prison CMO again sent a

requisition for police guards to take the applicant to the civil hospital on 22.08.2024. But till today, the police guards were not provided to take the applicant to the Urologist for the further treatment. At present, the medical report of the applicant shows that he is Haemodynamically stable. It is further mentioned in the affidavit that the prison hospital sent the applicant to the civil hospital on 24.08.2024. The Medial Officers in the civil hospital referred to the applicant to the higher center. It is mentioned in the affidavit that, since it was not mentioned which that higher center would be, the prison authorities wrote a letter to the civil hospital at Nashik asking them to explain which would be the higher center. Another request was made to D.I.G. for orders for providing police guards to take the applicant to higher center. Till today, nothing further has transpired. It is mentioned in the affidavit that the prison hospital would treat the applicant as best as possible.

5. As can be seen, there is total negligence and apathy shown by the concerned authorities who were in control of providing the escorts. The prison authorities are doing what they can do, but that is not enough. The affidavit shows that, surgery

was advised for the applicant, but for many days no urgent steps were taken and only some correspondence was kept pending between the civil hospital, the prison authorities and the authorities providing escorts. All this shows that the concerned authorities have failed to take prompt steps to give a proper medical treatment urgently to the applicant. From this background, it appears that the applicant is at a serious risk regarding his health. The prison authorities have practically expressed their helplessness in arranging immediate surgery on the applicant.

6. In this view of the matter, though the offence is quite serious, the health issue of the prisoner is also an important issue. Therefore, the applicant will have to be permitted to take treatment privately. To facilitate this, the applicant is required to be given temporary bail. Since the offence is serious, this bail would be for a temporary period and subject to certain conditions.

7. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.527 of 2022, the Applicant is directed to be released on temporary bail for a period of six months from today, on his furnishing P. R. bond in the sum of Rs.30000/- with one or two sureties in the like amount.
- ii) After his release on bail, the applicant shall inform the line of treatment and the time frame for his treatment and surgery, to the Investigating officer; within 15 days from his release.
- iii) The officers of the concerned police station are required to periodically verify availability of the applicant either at his house or in the hospital.
- iv) After the period of six months is over from his actual release from the prison, the applicant shall surrender before the prison authorities.
- v) The Application is disposed of.

(SARANG V. KOTWAL, J.)