



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO. 609/2024

(Mr. Dinesh @ Ompprakash S/o. Yadorao Nagpure Vs. State of Maharashtra & ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. S. Manohar, Advocate for appellant.
Mr. P. Pendke, APP for respondent Nos. 1 & 2.
Ms. Chaitali Bhute, Advocate (appointed) for respondent No.3.

CORAM: G. A. SANAP, J.

DATED : 20/12/2024.

Heard.

2. In this appeal, challenge is to the order dated 23.08.2024, passed by the learned Special Judge, Gondia, whereby the application made by the appellant/accused No.8 for temporary bail for a period of one month was rejected.

3. The appellant is facing the charge of murder with other accused in Crime No. 134/2021 registered at Police Station Dawaniwada, Dist. Gondia. His regular bail application was rejected. The appellant made the application for bail contending that he has undergone angioplasty. Recently, he has developed left Groin Region Abscess The Doctor advised him to take nutritious food. It is stated that his health condition is deteriorating day by day for want of treatment. The special treatment is not available at Bhandara Hospital.

4. The State has filed reply and opposed the application. It is contended that the learned Special Judge, Gondia has recorded cogent and concrete reasons while rejecting the application for bail. It is submitted that the treatment can be provided in the Jail Hospital as well as at Civil Hospital at Bhandara.

5. In view of the statement made in the appeal, I called the report of the Medical Officer, Bhandara District Prison. The Medical Officer has submitted his report dated 13.12.2024. In my opinion the report submitted by the Doctor is sufficient to accept the contention of the appellant. The Doctor in his report has categorically highlighted the ailment of the appellant. The Doctor has categorically stated that the appellant could not get nutrition diet suggested by the Nutritionist of Superspeciality, Hospital, Nagpur. It is also stated that the cardiologist and respiratory pulmunologist of Superficiality Hospital, Nagpur has advised him daily physiotherapy of different types for one month. It is not possible to provide treatment at Bhandara Hospital. It is also stated that his health is now critical. He has been sent to Civil Hospital, Bhandara multiple times.

6. It is to be noted that the report of the medical officer cannot be ignored. The facts recorded in the Medical Report of Medical Officer supports the contentions of the accused. It is true that the appellant has been facing serious charge, however, his right to take treatment cannot be

denied. Denial of such right would violate his fundamental rights. In view of this, I conclude that this is fit case to grant temporary bail for a period of one month

7. Accordingly, the appeal is allowed.

8. Impugned order dated 23.08.2024 passed by the learned Special Judge, Gondia is set aside.

9. The appellant/accused No. 8 Dinesh @ Omprakash s/o. Yadorao Nagpure be released on temporary bail for a period of one month, on his furnishing PR bond of Rs. 20,000/-with one surety in the like amount.

10. The appellant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

11. The appellant/accused shall provide his residential address and cell number to concerned Investigating Officer and shall not change his place of residence without prior intimation to the concerned Investigating Officer.

12. The appellant/accused shall surrender himself after completing his one month of bail.

(G. A. SANAP, J)