



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.1296 OF 2023

IN

CRIMINAL APPEAL NO.593 OF 2023

(Sudhakar Omkar Bunde Vs. State of Maharashtra and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.L. Khapre, Sr. Advocate a/b A. Anwar J. Mirza, Advocate for the appellant.
Mr. A.R. Chutke, APP for respondent No.1/State.
Mrs. S. Saware Gadhave, Advocate (appointed) for respondent No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JANUARY 18, 2024.

By this application, the applicant is seeking appropriate directions to the Jail Superintendent, Akola prison.

2. Mr. Khapre, learned Senior Counsel submitted that the present applicant preferred Criminal Application No.1228/2023 in Criminal Appeal No.593/2023 for seeking suspension of sentence imposed by the Special Court vide its judgment and order dated 19/08/2023 in Special Case No.65/2019 thereby convicting the appellant for the offences punishable under Sections 354 and 354A of the Indian Penal Code, 1860 and Section 10 of the Protection of Children from Sexual Offences Act, 2012. This Court has passed the order on 05/12/2023 and directed that the report of the Medical College and Hospital, Nagpur as far as contention of the appellant that he has to undergo bye-pass surgery is to be called.

3. In compliance of the aforesaid order, learned Additional Public Prosecutor has placed on record the report issued by the Professor and Head, Department of Cardiology, Government Medical College, Nagpur stating that the applicant is admitted his CVTS ward under Dr. Satish Das for by-pass surgery for his heart ailment which is to be done in coming week. After surgery he will need recuperation for two months for wound healing and physiotherapy and frequent visits to Surgeon. Such attention cannot be provided in jail hospital which has only primary health facilities.

4. Considering the report of the Medical Officer, District Prison, Akola dated 09/12/2023, this Court directed the applicant that the applicant within four days of release admit himself in the Government Medical College, Nagpur. The Professor and Head, Department of Cardiology, Government Medical College, Nagpur is requested to take immediate steps for treatment of ailment of the applicant and perform necessary surgery as per protocol so that the applicant can surrender before the Superintendent of Jail, Akola as directed by this Court.

5. Learned Senior Counsel submitted that in view of that, the applicant appeared before the Government Medical College, Nagpur. However, the surgery was not performed and the applicant was asked to incur the expenses, and therefore, the applicant has not given the consent to undergo the surgery.

6. *Per contra*, learned Additional Public Prosecutor submitted the communication issued by the Superintendent, Central Prison, Akola stating that the amount of Rs.2,50,000/- was already sanctioned, but as the applicant has not undergone the surgery, the amount was to be returned back to the concerned department. He submitted that already the amount of Rs.2,50,000/- is sanctioned for the surgery, and therefore, he is entitled for the said medical expenses as per the said communication.

7. Now, the applicant has filed an affidavit stating that he is ready to give consent to undergo the surgery and he is willing to undergo the heart surgery in the Government Medical College and Hospital, Nagpur and he had already given his consent in specific format provided by the Hospital.

8. In view of that, as now the applicant is already admitted in the hospital, the Government Medical College, Nagpur has already complied the necessary formalities and obtained the consent from the applicant. In view of that, the Superintendent of Police, Central Prison, Akola shall make arrangement for the expenses which he has obtained by obtaining the grant of Rs.2,50,000/-. If the expenses incurred are more than Rs.2,50,000/- the applicant would be entitled for the reimbursement as per the rules.

9. In view of that, the application deserves to be allowed and following directions are given.

- i) Criminal Application No.1296 of 2023 is allowed.
- ii) The non-applicant – State of Maharashtra through Superintendent of Police, Jail Akola to bear the expenses of surgery of the applicant and deposit the expenses of Rs.2,50,000/- at Government Medical College, Nagpur, immediately.
- iii) If the expenses are more than Rs.2,50,000/- the applicant would be entitled for the further expenses as per the rules.

10. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*