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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 795 OF 2024

Santosh Uttam Pawar	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Ms. Vrushali Maindad, appointed Advocate, for the Petitioner.

Mrs. P.P.Shinde, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
DATE : 13th MARCH, 2025

P.C. :

1. The aforesaid petition was filed by the petitioner, through jail, in 2023, seeking remission of his sentence under the Maharashtra Prison Rules and the provisions of the Criminal Procedure Code.

2. During the course of hearing of the aforesaid application, learned appointed Counsel appearing for the petitioner submitted that

the applicant is suffering from HIV and has serious medical ailments, as a result of which, we called for the medical report of the petitioner. Pursuant thereto, learned APP submitted the medical report of the petitioner which showed that the petitioner was suffering from HIV and placed before us the parameters pertaining to HIV. The petitioner, who was heard through video conferencing on 14th January, 2025, informed us about his other medical ailments, due to which, he was unable to perform his day-to-day activities. Pursuant thereto, we directed the Superintendent of Kolhapur Central Prison, Kolhapur, to submit a fresh medical report of the petitioner with respect to the petitioner's medical condition, after his check-up at the Government Hospital.

3. Pursuant thereto, on 20th January, 2025, learned APP tendered the medical report of the petitioner dated 27th January, 2025. It appears that the petitioner has abscess over his back which needs urgent surgical intervention, however, the petitioner has denied his consent for the same. Counselling of the petitioner was done,

pursuant to which, he agreed to get his surgery done at the Government Hospital. It appears that pursuant to the counselling, the petitioner was again admitted to the Government hospital for performing surgery, however, before the surgery could be performed, he refused to get his surgery done.

3. Today, learned Counsel for the petitioner, on instructions of the petitioner and the petitioner, who also appears before us through video conferencing, request that he may be permitted to undergo surgery at the private hospital of his choice.

4. In the peculiar facts and considering the previous medical reports and the medical condition of the petitioner, we permit the petitioner to get his surgery performed in a private hospital of his choice, subject to the petitioner paying the costs of the said surgery.

5. Accordingly, the Superintendent of the Kolhapur Central Prison, Kolhapur, to take the petitioner to the hospital, one day prior

to the date when the surgery is to be performed in the hospital, so as to enable the Doctors to perform the surgery on the petitioner. The petitioner to be brought back to the Government Hospital on the Doctors certifying that the petitioner is fit for discharge. Thereafter, for a few days, the petitioner to be kept in the Jail Hospital, till his wounds are recovered.

6. Considering the financial condition of the petitioner, in the peculiar facts, the petitioner is not required to deposit any charges towards the Police, who will be deputed in the Hospital.

7. Stand over to **2nd April, 2025**.

8 Learned APP to place on record the petitioner's Medical Report on the next date.

9. The Superintendent of the Kolhapur Central Prison, Kolhapur, to hand over all the medical case papers of the petitioner to

the petitioner, after retaining a xerox copy of the same, so as to enable the petitioner /his family members to take appropriate steps, after taking an acknowledgment.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.