

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4496 OF 2024
WITH
INTERIM APPLICATION NO. 4841 OF 2024
IN
BAIL APPLICATION NO. 4496 OF 2024

Anilkumar Babulal Runthala

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Abad Ponda, Senior Advocate a/w. Mr. Chaitanya Nikate, Mr. Nilesh Tribhuvan, Burzin Bharucha, Ms. Ruchi Pawar and Mr. Swapnil Sangle, Advocates i/by White & Brief Advocates & Solicitors for Applicant.
 - Mr. Mayur Sonavane, APP for Respondent – State of Maharashtra.
 - Mr. Anil Gherdikar, Addl. DCP, ACB, Mumbai present.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 09, 2025.

P.C.:

1. Heard Mr. Ponda, learned Senior Advocate for Applicant and Mr. Sonavane, learned APP for Respondent – State.

2. Present Interim Application has been filed by the Applicant for medical bail. I am hearing the Bail Application also. I had made it clear when I heard the matter on 07.01.2025

3. After hearing Mr. Nikte, learned Advocate for Applicant on 07.01.2025 at length, this Court passed the following order:-

“1. Heard Mr. Nikte, learned Advocate, for the Applicant and

Mr. Sonawane, learned APP for the Respondent – State briefly.

2. This Interim Application seeking release on medical bail is argued before me. It is stated so in the praecipe seeking Bail Application. Reading Orders of this Court passed in the past two months, it is apparent that the Applicant before me is indeed suffering with serious medical ailments though this Court had by previous Order passed successively on 05.12.2024, 11.12.2024, 16.12.2024 and 20.12.2024 directed the learned APP to obtain appropriate instructions from the concerned Medical Board of Sir J. J. Group of Hospitals. The Board has now certified in their second report that the treatment that would be required to be given to the Applicant for his illness can be availed by him in the State Government Hospitals like King Edward Memorial Hospital (KEM), Mumbai and Nair Hospital, Mumbai. Though this Court is not an expert, prima facie, after reading the first report dated 18.12.2024, it is seen that the said report has been superseded by the report dated 07.01.2025 which is now placed before me today by Mr. Sonawane, learned APP for the Respondent – State. Five members of the Board of Sir J. J. Group of Hospitals have signed the said report. It is confirmed that insofar as sufferance of the Applicant before me for the ailment of Gastritis is concerned, Gastroenterology Department is not available in the Sir J. J. Group of Hospitals as stated as stated therein. However, it is clearly seen that apart from ailment of Gastritis, the Applicant is also suffering from 4 other medical ailments duly certified by the same Board viz; Hematemesis with malena, Recurrent hematuria, Dysphagia and Giddiness. Report also states that he requires treatment. In that view of the matter, the Applicant cannot take treatment for Gastritis in the Gastroenterology Department of one hospital and avail treatment for his other medical ailments in the J. J. Group of Hospital. There has to be one hospital where the Applicant can be treated for all his medical ailments. There is no doubt about the fact that the Applicant is suffering from Gastritis, Hematemesis with malena, Recurrent hematuria, Dysphagia and Giddiness which is mentioned in the Reports, cognizance of which is taken in the aforementioned previous orders. The report dated 07.01.2025 is taken on record today. The Investigating Officer is present in Court. Mr. Sonawane, learned APP shall ensure that he will take absolute and appropriate instructions from the Investigating Officer who is present in Court as to why further custodial interrogation of the Applicant is required. It is seen that Charge-sheet is filed and investigation is completed. It is the case of the prosecution that the Applicant before me is a businessman and in the course of his business received amounts against supplying goods to two out of the 16 entities who are arraigned as Accused for having received funds/graft money. It is alleged by the prosecution that amount is received by the Applicant. However, if the Applicant has provided goods in return then in the investigation conducted that needs to be disclosed. Charge-sheet has already been filed. Applicant is incarcerated since 06.08.2024. He is

indicted under Sections 403, 409, 465, 467, 468, 420, 471 r/w. 120B of the Indian Penal Code, 1860 and under Sections 7, 13(1)(a) and 13(2) of the Prevention of Corruption Act, 1988. However, he is a recipient of funds from the Bank Account/ two of the charged entities. His defence is of supply of goods to them. According to Mr. Nikte, learned Advocate for the Applicant monies were received by the Applicant against providing goods to the two entities in the normal course of business who passed on money against those goods. The Investigating Officer shall take cognizance of this only and ascertain the same on the basis of documentary evidence which is required and if any further investigation is required to be done, he shall inform the Court through the learned APP on the next date.

*3. Considering the cited medical emergency and exigency expressed by the Applicant and the twin medical report, list this matter on **09.01.2025, First On Board** for passing Orders along with the Bail Application.”*

4. At the time of passing that order, it is seen that the Bail Application is also pending. What persuaded to me pass the above order were two specific reports placed before me. These reports were filed pursuant to four orders passed by this Court intermittently during the month of December 2024 in order to ascertain the medical status and condition of the Applicant.

5. First report was filed on 18.12.2024 which has found place in the previous orders passed by my predecessor. The second report was tendered before me on 07.01.2025 by the same medical board of 5 doctors of the J.J. Group of Hospitals, *inter alia*, certifying the query which was raised by the Court with respect to sufferance of one of the five medical ailments by the Applicant and whether he could be treated at the J.J. Hospital.

6. Considering the reasons given in the aforesaid order and the medical condition of the Applicant, it would be required to note the condition of the Applicant since the Application is made for medical bail also. It has been certified by the board of 5 doctors of the J.J. Group of Hospitals and Medical Board thereof by the report dated 07.01.2025 that the Applicant is suffering from the following ailments:-

- (i) First ailment is Hematemesis which is vomiting of blood, which is either red or dark brown coffee colour due to sufferance of the Applicant due to other ailments;
- (ii) The second ailment is that he is diagnosed with suffering from Melena which is passage of black, tarry stools. It is due to suffering from ailment called Hematochezia which is the passage of fresh blood per anus, usually in or with the passage of stools;
- (iii) The third ailment suffered by him is recurrent Hematuria which is the medical name for occurrence and presence of blood cells in urine with gross;
- (iv) The fourth medical ailment is Dysphagia which relates to difficulty in swallowing and it is a painful condition and in some cases if swallowing is impossible then

administering of food or food supplements would have to be done by alternative methods;

(v) The fifth ailment is Giddiness which in colloquial language would be attributable to dizziness or a feeling of being imbalanced. However in the case of present Applicant, it is a result of the medical ailments which are delineated herein above due to which it would constantly lead to the Applicant fainting at any given point of time;

(vi) The sixth ailment is Gastritis which is inflammation of the inner lining of the stomach and the same requiring treatment as it affects digestion. Treatment of Gastritis is specialized and is carried out in a specialized department called Gastroenterology Department of a hospital having specific facilities for treatment of the same.

7. The Medical Board of Sir J.J. Group of Hospitals has stated that in so far as the Gastritis treatment is concerned, the same can be availed by the Applicant in any state run hospital viz. King Edward Memorial Hospital (KEM) or Lokmanya Tilak Municipal General Hospital, Sion, Mumbai. However, in so far as the other ailments are concerned, there is availability of facility in the Sir J.J. Group of

Hospitals also, but not for Gastritis as the concerned Department does not exist.

8. Needless to state that the treatment for the aforementioned illnesses cannot be availed at two different hospitals considering the medical condition of the Applicant. In that view of the matter, ensuring that Applicant overcomes his serious medical condition as delineated in the twin reports is more important at this stage. Applicant is indicted alongwith several other accused in the First Information Report (FIR) registered on 28.02.2024, but has been arrested on 06.08.2024. He is 43 years old. Indictment of the Applicant is under Sections 7, 13(1)(a) and 13(2) of the Prevention of Corruption Act, 1988 and Sections 403, 409, 465, 467, 468, 420, 471 read with 120-B of the Indian Penal Code, 1860. Charge-sheet is filed on 07.10.2024 before the Sessions Court in Special Case No.1972 of 2024.

9. Principal accused has been enlarged from the custody despite of his arrest on the ground of his arrest not being conveyed to him in writing at the time of his arrest by an order passed by the Division Bench of this Court. Be that as it may that would be on the merits of the matter and further investigation.

10. In so far as the Applicant before me is concerned, I am considering his case on the ground of medical bail primarily and also regular bail because if the Applicant is provided treatment and comes

back to normalcy, prosecution can always investigate the Applicant if required. To that extent Mr. Ponda, learned Senior Advocate would submit that the family members of the Applicant at this stage are more concerned with reviving his health condition and the Applicant would submit to any orders passed by this Court. Mr. Ponda has also taken instructions from the Doctors treating the Applicant and would submit that Applicant is hailing from Ahmedabad and his entire family is settled and based in Ahmedabad He would submit that his family Doctor Mr. Bhawani would be treating him in Shreeji Speciality Hospital having facility to treat all the aforesaid six ailments which have been noted by the Court and the Medical Board.

11. Needless to state that Prosecution can always go and check and make an appropriate report to the Court in the event if the prosecution finds that the said hospital is not a proper hospital which can provide treatment for the aforesaid ailments or if the Applicant has recovered and is not co-operating. A further check is also put by the Court to the extent that within a period of two days of release the Applicant shall get himself admitted to the said Shreeji Speciality Hospital and also inform the local jurisdictional police station in Ahmedabad alongwith all details to be given to the Investigating Officer about the same.

12. Investigating Officer shall be at liberty to visit Shreeji Speciality Hospital, Ahmedabad to ascertain the aforesaid fact and for investigation. Shreeji Speciality Hospital, Ahmedabad shall make an appropriate report about the status and medical condition of the Applicant on the aforesaid six medical ailments and his availability to co-operate with the investigation depending upon his recovery after a period of six weeks and place the same before the Court for compliance.

13. This is only in order to ensure that the Applicant's case which is considered by the Court on the basis of the documentary evidence placed before the Court. Needless to state that the fact the condition of the Applicant as stated in the two reports given by Sir. J.J. Group of Hospitals, *prima facie*, appears to be correct and it is therefore considered by this Court as true and correct.

14. On the issue of merits for grant of bail it is *prima facie* seen that FIR is registered on 28.02.2024, Applicant before me is arrested on 06.08.2024, FIR is registered against sixteen (16) companies and firms who claimed GST refund fraudulently. Names of all sixteen (16) companies / firms who claimed such GST refund to the tune of Rs. 175.93 crores in total is stated in the FIR. Names of Directors and Proprietors are also mentioned with all details of their businesses. It is seen that each of the sixteen (16) Claimants have claimed GST refund

for the financial year 2020-2021 from Rs. 1.13 crores onwards and upto Rs. 26 crores in the case of one entity. The FIR notes that disbursement is made to sixteen (16) entities qua who have claimed it fraudulently. The principal Accused in this case is the Bank Manager of SBI Bank who has orchestrated the refund.

15. The entire details of LUT (Letter of Undertaking), IDS (Inverted Duty Structure), GSTR-2A, Return file of Inward and Outward Supply, Input Tax Credit, Bank details of sixteen (16) Claimants depending on their business turnover is stated in extensive detail in the FIR for all sixteen (16) companies / firms. Admittedly, the Applicant's name does not figure in the list of sixteen (16) Claimants. Applicant is the Director of two (2) companies namely BRR Udyog Pvt. Ltd. and Runthala Enterprises Pvt. Ltd. There are other Directors of these two (2) companies also. Applicant's case in the Application is that in the course of business of the aforementioned two (2) companies numerous business transactions and various invoices and GST challans were issued and documents were executed for the business which was undertaken.

16. If it is prosecution case that Applicant has through above mentioned (2) companies traded with the sixteen (16) companies who have fraudulently received GST refund, the same can be investigated and funds can be traced. In so far as BRR Udyog Pvt. Ltd. is concerned

it is involved with the business of selling gold since the year 2016. It appears that the link of this company is alleged with one of the Claimant of GST refund namely S.K. Enterprises who has received GST refund. However, it is the case of Applicant that BRR Udyog Pvt. Ltd. is having business transactions / relations with S.K. Enterprises for purchase of Gold Bullion. It is stated that it is maintaining Ledger Accounts Invoices, Stock-Book and Book-Debt to show the purchases and closing stock of Gold Bullion.

17. Similarly, if it is the allegation that BRR Udyog Pvt. Ltd. has transacted with other companies all above documents should be investigated. Similarly, in the case of Runthala Enterprises Pvt. Ltd. dealing in agricultural products can also be investigated. Any GST return or refund has to be backed by the above mentioned documentary evidence. Applicant is ready to co-operate rather will have to co-operate. The investigation will have to be conducted for ascertaining the veracity of the Ledger Account, Tax Invoices, Book - Debts, closing Account and Stock-Register qua the Claimants with whom Applicant has transacted as alleged. It is Applicant's case that he has a business relationship with his clients since the year 2016 which will have to be investigated. Custodial interrogation of the Applicant in this case and that too in his present medical condition cannot be the only alternative. If there is any direct involvement it needs to be investigated thoroughly. Applicant's name does not figure in the FIR.

18. Hence, Applicant shall provide all details for investigation. The Application of Applicant is primarily considered on medical grounds alongwith the bail Application at this stage and it is subject to revocation if he or his two (2) companies or their Directors do not co-operate with the investigation. Merely because at this stage unless the entire chain which is linked is to be traced including the absconding Accused or there maybe involvement of bogus companies, keeping the Applicant in jail when he is ready to co-operate is not the answer. Hence, on both counts but with a direction that Applicant's both entities namely BRR Udyog Pvt. Ltd. and Runthala Enterprises Pvt. Ltd. through their other Directors shall co-operate with the investigation on all counts and make disclosures, the present order is passed on both counts.

19. That apart this Court while passing four (4) orders on pervious occasions in the month of December, 2024, in so far as the Applicant's medical condition is concerned has clearly applied its mind and the same is certified by the twin reports filed by the Sir. J.J. Group of Hospitals. Hence on medical ground also, Applicant deserves enlargement on bail for medical treatment which cannot be denied to him where the State run hospital itself does not have the concerned department for treatment.

20. In view of the above, Applicant be released on bail on medical grounds.

21. In that view of the above, Bail Application and Interim Application both stand allowed on the following conditions:-

- (i) Applicant – Anilkumar Babulal Runthala be released on bail, on furnishing a PR Bond of Rs.2,00,000/- and one or more sureties in the like amount;
- (ii) It is directed that the other Co-Directors of BRR Udyog Pvt. Ltd. and Runthala Enterprises Pvt. Ltd. whose names shall be provided by the Applicant to the Investigating Officer, shall attend investigation before the Investigating Officer on the first and third Monday of every month from 10:00 a.m. to 5:00 p.m. with all disclosures as called for by the Investigating Officer initially for a period of three (3) months from today and thereafter the Applicant will also join in the investigation along with all the Co-Directors who are directed to be present before the Investigating Officer as directed or as called for by the Investigating Officer thereafter.
- (iii) Applicant shall not leave the country without prior permission of the Court;

- (iv) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (v) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable;
- (vi) Applicant shall surrender his passport with the Investigating Officer of the concerned police station;
- (vii) Applicant shall not indulge in any activity similar to the activities on the basis of which the Applicant stands prosecuted;
- (viii) Applicant shall not try to establish communication with any co-accused or any other person involved directly or indirectly in similar activities, through any mode of communication;
- (ix) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

22. Liberty to apply for cancellation of this order to prosecution in case of any breach of the conditions.

23. Bail Application No.4496 of 2024 and Interim Application No.4841 of 2024 are allowed and disposed in above terms.

[MILIND N. JADHAV, J.]

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