

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.601 OF 2025

Jafar Husain @ Shabir Akram Ali Khan .. Applicant
Versus
State of Maharashtra .. Respondent

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- Mr. Visshal Khetre, Advocate appearing through Video Conferencing a/w. Mr. Anirudh H. Yadav, Mr. Viraj Gharat and Mr. Nitin Hazare, Advocates for Applicant.
 - Ms. Mahalakshmi Ganapathy, APP for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 23, 2025

P.C.:

1. Heard Mr. Khetre, learned Advocate for Applicant appearing through Video Conferencing and Ms. Ganapathy, learned APP for Respondent.

2. Praecipe is moved on 22.04.2025 seeking consideration of case of Applicant for hearing Application on the ground of his medical ailment. The issues which are stated in the praecipe are required to be ascertained and confirmed but it is unfortunate that Advocates who are appearing in the matter do not know the procedure followed by this Court. It appears that Advocates are riding a high horse and want their matters to be heard and decided immediately.

3. Hence a message is required to be given to all Advocates appearing across the bar that they will not determine as to how this

Court has to function. If they are dissatisfied with any of the order of the Court they are free to challenge the order of this Court in accordance with law as per remedy appropriately available to them.

4. In so far present case is concerned, whatever is stated in the praecipe and the four page Annexure report of one Balaji Hospital pertaining to year 2013 annexed thereto is required to be ascertained and confirmed.

5. *Prima facie*, the Court refuses to take cognizance of the report of year 2013 appended to the praecipe which is filed alongwith the praecipe in the year 2025.

6. Be that as it may, since a medical issue has been raised in the praecipe relating to past medical history of Applicant of he having suffered a fall in the year 2013 because of which he had undergone some operation, this Court will have to ascertain the present medical condition of Applicant.

7. Applicant is indicted in offences punishable under the provisions of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '**NDPS Act**') and is incarcerated from 06.05.2024.

8. This Court has found that many Applicants are finding ingenious methods and ways of filing Applications on medical ground and therefore whenever such Applications are filed, Court is required

to ascertain the truthfulness of such Applications and therefore, the Court follows a set procedure in all such cases by initially calling for a report from the Chief Medical Officer of the prison hospital where such Accused persons are lodged. After perusing the said report, if any reference is required to be made to the State run Sir J. J. Hospital or any other State run Hospital for ascertaining and confirming the medical ailment of undertrials persons and their line of treatment, further orders are passed. Generally this Court ensures that the aforesaid exercise is completed within a period of two weeks i.e. one week at a time and once the medical ailment is confirmed, the Bail Application is taken up for hearing on out of turn basis.

9. Unfortunately the Advocate appearing in the present matter is not aware about the procedure of the Court and therefore he is insisting that the matter should be listed and heard immediately. The Application for listing the matter immediately is outrightly rejected by the Court since the Medical Report is required to be called for.

10. In view of the above, learned APP is directed by the Court to immediately consider the extreme medical urgency listed in clause No.14 of the praecipe and medical papers attached to the praecipe and call for an appropriate report from the Chief Medical Officer of Mumbai Central Prison Hospital where the Applicant has been lodged.

11. The Report shall ascertain the medical ailment which is

stated in the praecipe, as also the present treatment given to Applicant and future treatment required by him to enable this Court to consider the request made by Applicant for considering grant of bail on medical grounds to him.

12. The aforesaid exercise be completed within a period of one week from today. The medical report of the Chief Medical Officer is directed to be placed on record on the next adjourned date.

13. Stand over to **30th April, 2025**. To be placed under the caption '**For Directions**'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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