

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**Interim Application No.4340 of 2025
In
Criminal Bail Application No.3428 of 2025**

Sunil Kumar Rameshchandra Garg
Age: 59 yrs, Adult, Indian
Inhabitant, R/at One North,
A/1302, Magarpatta City,
Hadapsar, Pune-411028
(Currently detained in Yerwada Jail,
Pune with respect to CR No.380/2022
dated 14.3.2022 with Chakan Police Station) ... Applicant.

In the matter between:

Sunilkumar Rameshchand Garg
Age: 59 yrs, Adult, Indian
Inhabitant, R/at One North,
A/1302, Magarpatta City,
Hadapsar, Pune-411028
(Currently detained in Yerwada Jail,
Pune with respect to CR No.380/2022
dated 14.3.2022 with Chakan Police Station) .. Applicant/
Accused.

Vs.

1. The State of Maharashtra
Through PP, Chakan Police Station,
Pimpri Chinchwad, Dist-Pune
(CR No.380/2022)

2. Sandeep Jagdish Chaudhary

Age Adult, Occ: MD

HUF India Pvt Ltd

Having office at

Gala no.304 & 305, Nanekarwadi

(Chakan), Khed, Pune

... Respondents.

Mr Aabad Ponda, Sr Advocate a/w Mr Aditya Ajgaonkar,
Mr Pulkit Tyagi, Ms Rupal Shrimal i/by Mohd Naved Mulla
for the applicant.

Mr SS Pednekar, APP for the respondent / State.

Mr Rushikesh Kale for respondent No.2.

PSI Sameer Dabhade, EOW, Pimpri Chinchwad.

Coram : R.N.Laddha, J.

Date : 5 December 2025.

P.C. :

Heard Mr Aabad Ponda, the learned Senior Counsel appearing on behalf of the applicant, Mr SS Pednekar, the learned Additional Public Prosecutor representing respondent No.1/ State, and Mr Rushikesh Kale, the learned Counsel appearing for respondent No.2/ complainant.

2. The applicant has preferred the present interim application seeking the following substantive relief:

“a. Direct the Jail Authorities to immediately admit the Applicant under specialist’s treatment in a private multi-speciality hospital of choice i.e. Wisdom Hospital, Pune, at the cost of the Applicant’s family, in compliance with the Ld.Magistrate’s Order dated 13.10.2025 and this Hon’ble Court’s Order dated 04.11.2025;

b. Grant medical Bail to the Applicant on medical grounds to enable supervised and timely specialist treatment to preserve the right to health and life;”

3. The learned Senior Counsel appearing on behalf of the applicant submits that the medical condition of the applicant is serious as demonstrated by the medical report dated 6 October 2025, which was the basis of the learned Magistrate to pass the concerned order on 13 October 2025. Pursuant to the order dated 4 November 2025, passed by this Court, the applicant applied before the learned Magistrate to admit the applicant to Wisdom Hospital, Pune. When the learned Magistrate called for the compliance report, the jail authorities addressed a report dated 7 November 2025 and submitted the report dated 6 November 2025 of the Chief Medical Officer, Yerwada Jail. In this report, the jail authorities relied on a Circular dated

17 November 2006 issued by the Government of Maharashtra, which stipulated preference for treatment in government or municipal hospitals, and suggested the applicant's referral to JJ Hospital, Mumbai. It is argued that the learned Magistrate, instead of ensuring compliance with its own order at the earliest, has passed an order dated 10 November 2025 allowing the applicant to be taken to JJ Hospital, Mumbai, for treatment. The government circular dated 17 November 2006, being an administrative order, does not absolve the parties from approaching the Court for appropriate directions. The learned Magistrate cannot now, by its order dated 10 November 2025, review its earlier order dated 13 October 2025. The learned Senior Counsel points out that the order dated 13 October 2025 is not challenged to date and has thus attained finality.

4. The learned Senior Counsel, relying upon the decision in *Satyender Kumar Jain vs. Directorate of Enforcement, 2013 SCC OnLine SC 686*, submits that a prisoner has a right to avail medical treatment in a private hospital at his cost. The applicant has been languishing in jail for more than one year and eleven months and suffers from chronic kidney disease, for which he has a right to be admitted to a

hospital of his choice during the period of his treatment. The applicant needs treatment and is ready to bear its costs.

5. On the other hand, the learned Additional Public Prosecutor representing respondent No.1/ State, submits that at the time of passing of the order dated 13 October 2025, the circular dated 17 November 2006 was not brought to the notice of the learned Magistrate. Even while passing the order dated 4 November 2025, the circular was not placed before this Court. The jail authorities recommended the applicant for treatment at JJ Hospital, Mumbai; however, when the escort arrived, the applicant refused to go. The applicant in his statement recorded on 29 November 2025 attributes his refusal to the fact that no ambulance was provided by the State, which the learned APP disputes. The learned APP further submits that although the right of an under-trial prisoner to seek medical treatment is a fundamental right, it cannot be interpreted or extended to secure the accused's treatment in a private hospital of his choice when such treatment is available in government hospitals. The availability of treatment at a government hospital does not in any manner impair the applicant's fundamental right, and admission to a private

hospital is an exception, not a rule. In support of his contentions, the learned APP relies upon the decision of this Court in *Lalit Nagpal vs. State of Maharashtra, Criminal Application No.348 of 2006 dated 12 September 2006*.

6. The learned Counsel appearing on behalf of respondent No.2 opposes the applicant's application. It is submitted that the applicant has consistently attempted to misuse alleged medical grounds to avoid facing the due process of law. Since his arrest in December 2023, multiple applications have been filed seeking medical treatment and requisitioning his health records from the jail authorities, without genuine medical justification. The medical report dated 22 July 2025 records the applicant's health as entirely normal and does not indicate any concerning medical conditions. However, one month later, another medical record was obtained, reflecting multiple kidney-related health issues. It is contended that these two reports, being issued within a short interval, are irreconcilable, and there is no plausible medical explanation for such abrupt development of conditions that were not seen earlier. Even assuming that certain treatment is required, the applicant has not provided any reasonable justification for insisting on

private medical treatment, particularly when the same facilities are available at government hospitals, which are fully equipped and competent to provide adequate care to undertrial prisoners. It is further urged that the applicant's conduct demonstrates a deliberate attempt to evade the judicial process, especially in the context of serious allegations involving an economic offence of Rs.139 crores, investigated by both the Enforcement Directorate and the police authorities. The applicant has a history of evading legal proceedings, as evidenced by the issuance of a Non-Bailable Warrant. The applicant may abscond and obstruct the administration of justice. The applicant has neither approached this Court with clean hands nor has he demonstrated any genuine medical urgency warranting this Court's indulgence. The applicant's conduct is a dilatory tactic to prolong trial proceedings and avoid incarceration.

7. This Court has given anxious consideration to the rival contentions and perused the records, including the written notes of arguments.

8. Upon a perusal of the records, it appears that on 13 October 2025, the applicant preferred an application before

the learned Magistrate for seeking treatment at a private hospital for the ailments stated therein. On the same day, the learned Magistrate, without giving the jail authorities an opportunity, permitted the applicant to receive treatment at any private multi-speciality hospital. This order was based on the singular ground that a neurologist was available at the Sassoon General Hospital, Pune. Subsequently, when the applicant's bail application came up for hearing before this Court on 4 November 2025, it was pointed out that the order dated 13 October 2025 had been flouted, and the applicant had not been provided with the requisite treatment as per the said order. A request was also made that directions be passed to the learned Magistrate to decide an application to that effect expeditiously. Accordingly, this Court, by its order dated 4 November 2025, requested the learned Magistrate to decide any application filed by the applicant for admission to Wisdom Hospital, Pune, at its earliest convenience and in accordance with law.

9. Thereafter, on 6 November 2025, the applicant preferred an application before the learned Magistrate seeking compliance with the order dated 13 October 2025. On the even date, the learned Magistrate directed the jail

authorities to file a status report. The Chief Medical Officer of Yerwada Central Prison submitted a report on the same day, referring to the circular dated 17 November 2006. In the report, it was stated that, while a neurologist was temporarily unavailable at the Sassoon General Hospital, Pune, such medical services were readily accessible at the JJ Hospital, Mumbai. It was further stated that the JJ Hospital was only an alternative, and the applicant would be transferred to Sassoon General Hospital, Pune, once a neurologist became available. By an order dated 11 November 2025, the learned Magistrate permitted the authorities to take the applicant to the JJ Hospital, Mumbai, for treatment. However, the applicant, upon being escorted to JJ Hospital, categorically refused treatment as no ambulance was being provided, an act duly recorded in his statement made in the presence of witnesses on 29 November 2025.

10. While it is undisputed that an undertrial prisoner has a fundamental right to seek medical treatment, such a right does not extend to the right to insist on treatment at a private hospital of his own choice when the necessary care is readily available at a government hospital. The availability

of treatment at government-run hospital, like the JJ Hospital, Mumbai, where all medical facilities are available, does not, in any manner, infringe upon the applicant's fundamental rights. A profitable reference in this regard can be made to the decision in *Chintan Jain vs. The Central Bureau of Investigation*, GAHC010250472022.

11. Pertinently, at the time of passing the order dated 13 October 2025, the learned Magistrate failed to take into account the relevant circular dated 17 November 2006, nor did he provide the jail authorities an opportunity to file a status report on the availability of medical treatment. The applicant's refusal to avail himself of treatment at the JJ Hospital, Mumbai, is utterly inconsistent with his purported medical needs, raises serious questions about his intentions, and undermines any claim of urgency or necessity for private medical intervention. Furthermore, when this Court was ready to hear and decide the applicant's bail application, the learned Senior Counsel for the applicant insisted that only the present interim application be taken up for consideration.

12. Considering the totality of the circumstances,

including the applicant's refusal to avail treatment at the JJ Hospital, Mumbai, this Court is not inclined to exercise its indulgence in favour of the applicant. Respondent No.1/ State shall take necessary steps immediately to provide medical aid to the applicant in accordance with law. As a result, the present interim application stands rejected.

[R. N. Laddha, J.]