



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 454 OF 2024

Rahul Devidas Chaudhari Vs State of Maharashtra

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

Court's or Judge's Order

Mr. M.N.Ali, counsel for the applicant.

Mr. N.B. Jawade, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/06/2024.

1. The applicant came to be arrested on 20/6/2023 in connection with Crime No. 105/2023 registered with non-applicant for the offence punishable under Section 406, 409, 420, 120-B, 506 and 507 of the Indian Penal Code, 1860.

2. As per the report lodged by Akhilesh Subhash Shelke, that he is having 40 acres of agricultural land, wherein he has cultivated cicers crops. In that year, 530 cicers crop was ripened from his agricultural field, which was kept in a godown. On 20/04/2023 at about 11.00 a.m., the applicant approached the complainant and lured him to part away with his agricultural produce by giving him more consideration. Therefore, the complainant on 21/04/2023 sold all his agricultural produce to the applicant, and in turn, the applicant has issued a cheque of Rs. 27,75,000/- drawn on HDFC Bank, Branch Shegaon, and the same was dishonored. During investigation, various agriculturists

came forward with similar allegations, and after completion of the investigation, the charge-sheet was filed.

3. Moreover, the initial bail applications were rejected. Thereafter, the applicant has filed an application on medical grounds that he is suffering from heart ailment, and he was advised for the heart surgery. Considering his request, earlier he was released on bail for six weeks to take treatment with the choice of his medical hospital. However, as the medical file was not available, therefore no treatment was provided to him, and therefore, he again surrendered before the Superintendent of District Prison, Buldhana. Thereafter, he was directed to undergo some tests in J.J. Hospital, which he has undergone, and therefore, again, he has prayed for the temporary bail on the medical grounds.

4. Heard learned counsel for the applicant and learned APP for the State. As far as the merit of the matter is concerned, and during the course of the investigation it was found that the agricultural produce which was procured by the applicant had been sold to the various traders, and he revised the sale considerations for those agricultural produce. The crop receipts issued by various traders were obtained during the course of the investigation, and the statements of the various agriculturists were also recorded. Thus, the involvement of the present applicant revealed in the alleged incident. Now, the application is filed by the applicant on the medical grounds. The applicant has complained about the heart ailment. He was referred to the

J.J. Hospital, Mumbai for some tests, and the report has been received. He has undergone the various tests, and he was suggested to go for Coronary Artery Bypass Graft Surgery, which he intends to have performed at Gajanan Heart Center, Jalgaon.

5. Learned counsel for the applicant placed reliance on the decision of the Hon'ble Apex Court in the case of *Satyendar Kumar Jain vs Directorate of Enforcement [Special Leave to Appeal (Cri.)No(s)6561 of 2023 decided on 26/05/2023]*, wherein the Hon'ble Apex Court has considered this aspect and held that citizen is having a right to take treatment of his choice, at his own expenses, in a private hospital. It is held that there is no reason to disbelieve report of G.B. Pant Institute of Post Graduate Medical Education and Research and released the applicant therein on interim bail.

6. Here also, the applicant was referred to the various hospitals, and reports were received, which shows that after angiography, the medical officers suggested the Coronary Artery Bypass Graft Surgery, and the applicant was admitted in Sir J. J. Group of Hospital, Mumbai, wherein he has undergone various tests. The report of the test is before this Court.

7. In view of the observations of the Hon'ble Apex Court and the reports received from the District Prison, Buldhana, showing that the applicant is in need of said Coronary Artery Bypass Graft Surgery therefore, the prayer

for grant of temporary bail deserves to be allowed. In view of that, I proceed to pass the following order.

- a] The criminal application is **allowed**.
- b] The applicant – ***Rahul Devidas Chaudhari*** shall be released on temporary bail, in connection with Crime No. 105/2023 registered with non-applicant/state for the offence punishable under Section 406, 409, 420, 120-B, 506 and 507 of the Indian Penal Code, 1860 to undergo the heart surgery for a period of eight weeks on following conditions.
- c] The applicant shall not leave the jurisdiction of Jalgaon District without prior permission of the trial court.
- d] During the temporary bail, all the relevant medical papers of such treatment shall be placed before the Court.
- e] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- f] The applicant shall not deal with his properties or assets, movable or immovable, in any manner while he is on temporary bail.
- g] After eight weeks, the applicant shall surrender before the Superintendent of District Prison,

Buldhana, which would commence from the date of his release. On failure to appear before the Superintendent of District Prison, Buldhana, the investigating agency shall take appropriate steps to arrest the applicant and produce him before the appropriate Court.

- h] The applicant shall not seek any adjournment during the trial on the ground of his ailment, as the trial has already begun and the issue of the identification parade is not disputed.
- i] On contravention of any of the conditions, the liberty granted to the present applicant deserves to be canceled.

Criminal Application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]