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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment reserved on: 25.03.2026**Judgment pronounced on: 27.03.2026**Judgment uploaded on: 28.03.2026*+ **W.P.(CRL) 787/2026**

ABUBACKER E

.....Petitioner

Through: Mr. Satyakam, Mr. Rehan
Ghalib Khan, Mr. Abdul
Shukoor, Mr. Shereef K.A. and
Mohd. Arif Hussain,
Advocates

pversus

NATIONAL INVESTIGATION AGENCY
AND ANR.

.....Respondents

Through: Mr. Rahul Tyagi, SPP NIA
with Mr. Jatin Khatri ASPP,
Mr. Vikas Walia, Mr. Amit
Rohila, Advocates

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the present petition, the petitioner seeks issuance of an appropriate writ, order or direction in the nature of mandamus directing the respondents to shift him, at his own cost, from jail in NIA Case No. 2/2023 arising out of RC-14/2022/NIA/DLI to a well-equipped multi-specialty private hospital such as Indraprastha Apollo



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or any other private hospital of his choice for further treatment; to permit one family member to remain with him as an attendant in view of his stated inability to attend to his daily needs on his own; and to ensure that the Delhi Armed Police (DAP) does not interfere in the course of his medical treatment.

2. Vide order dated 13.03.2026, a status report *qua* the medical condition of the petitioner was directed to be requisitioned from the Jail Authorities.

3. A report dated 19.03.2026, prepared by the Medical Officer In-Charge of CJ-08/09, Tihar, has been placed before this Court.

4. The said report discloses that the petitioner, who is suffering from various serious ailments, has been under continuous treatment at various government hospitals including All India Institute of Medical Sciences, Delhi (AIIMS) and Safdarjung Hospital. It records that in early March 2026, the petitioner repeatedly complained of breathlessness, chest pain and generalized weakness, for which he was examined and referred on multiple occasions to DDU Hospital and Safdarjung Hospital, where he received treatment including emergency care, investigations and specialist consultations. He was admitted in DDU Hospital from 04.03.2026 to 07.03.2026 with diagnoses including uncontrolled diabetes and lower respiratory tract infection, and was thereafter discharged. The report further notes that despite continued symptoms, he was again referred to Safdarjung Hospital on 10.03.2026 and 13.03.2026 for further evaluation and



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management, where he was examined, advised investigations and treatment, but was not admitted. The report further indicates that the petitioner continues to suffer from persistent cough, breathlessness and generalized weakness, along with fluctuating blood sugar and blood pressure levels and uncontrolled hyperglycemia, despite ongoing treatment, and is presently under medication and regular follow-up in various departments of Safdarjung Hospital.

5. However, the medical status report also mentions as under:

“The inmate patient is diagnosed case of:-

1. Type-II diabetes Mellitus
2. Moderate Non Proliferative Diabetic Retinopathy,
3. Hypertension,
4. Benign Prostate Hyperplasia,
5. Coronary artery disease,
6. Idiopathic Parkinson's disease,
7. Post-Operative case of Carcinoma Oesophagus (2020)
8. Moderate Frailty.
9. Recently diagnosed as LRTI (Lower Respiratory Tract Infection)”

6. *The learned counsel appearing for the petitioner* submits that the petitioner is not being properly treated at AIIMS, where he had earlier been directed to be admitted by the learned Trial Court as well as the Hon’ble Supreme Court, and therefore seeks permission to be treated at a multi-specialty private hospital of his choice at his own expense. However, the grievance of the petitioner, as put forth by the learned counsel, relates to the alleged non-cordial behaviour of the hospital staff and the petitioner’s perception that he is not being adequately attended to by the doctors at AIIMS. It is submitted that



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the petitioner's experience at AIIMS has been "disastrous", as he was allegedly humiliated by doctors who suspected him of feigning illness to secure release, and was also subjected to rude behaviour in the ophthalmology department, where he was made to wait for prolonged periods.

7. It is further stated that an application was filed by the petitioner before the learned Trial Court seeking permission to undergo treatment at a private hospital of his choice, at his own cost, which came to be dismissed *vide* order dated 04.07.2025, pursuant to which the petitioner had approached this Court by way of CRL.M.C. 5892/2025. The learned counsel draws the attention of this Court to the order dated 26.11.2025 passed by the learned Predecessor Bench in the said petition, whereby it was directed that a copy of the petitioner's medical record be provided to his family members to enable them obtain a second opinion from Apollo Hospital or any other hospital, and that upon such opinion being placed on record, the request for re-assessment by AIIMS be considered by the Jail Superintendent.

8. The learned counsel further submits that although liberty was granted to obtain a second opinion on the basis of medical records, the doctors at Apollo Hospital have opined that a meaningful opinion cannot be rendered without physically examining the petitioner. It is thus prayed that, without prejudice to the primary prayer, in the event this Court is not inclined to permit treatment in a private hospital, the petitioner may at least be allowed to be physically taken to a private



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hospital for the purpose of obtaining a second medical opinion.

9. The learned counsel for the petitioner further submits that although the petitioner's son has been permitted by the Hon'ble Supreme Court as well as this Court to remain present with him during his hospitalization, the Jail Authorities either do not inform him in a timely manner or intimate him at a very short notice, as a result of which he is unable to remain present with the petitioner.

10. ***The learned SPP appearing for the respondent/NIA***, on the other hand, opposes the present petition and submits that the same is misconceived and devoid of merit. It is argued that the petitioner's grievance that the doctors are not cordial towards him cannot be a ground to seek transfer to a private hospital of his choice. It is submitted that the petitioner is being provided the best possible medical treatment at premier government institutions such as AIIMS and Safdarjung Hospital, and the medical status report clearly reflects that he is being regularly examined, treated and referred to appropriate specialized departments as and when required. It is also pointed out that a similar application seeking permission for treatment in a private hospital had earlier been dismissed by the learned Trial Court *vide* a reasoned order dated 04.07.2025. Further, pursuant to the order passed by the Predecessor Bench of this Court, the petitioner has already been granted liberty to obtain a second medical opinion, which has also been availed of by him. It is thus contended that there is nothing on record to indicate any denial of proper medical care or any deficiency in the treatment being provided



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to the petitioner at AIIMS, Safdarjung Hospital or other government hospitals. In these circumstances, it is prayed that the present petition deserves to be dismissed.

11. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondent, and has perused the material placed on record.

12. In the present case, this Court notes that the petitioner's second application seeking regular bail was dismissed by the learned Trial Court on 09.06.2023, while observing that the petitioner was suffering from multiple medical conditions requiring constant care, and accordingly directing that he be admitted to AIIMS for treatment. Thereafter, the petitioner approached the Hon'ble Supreme Court by way of SLP (Crl.) No. 13178/2024, wherein the Hon'ble Supreme Court confined consideration of his plea to medical grounds and, *vide* order dated 12.11.2024, directed constitution of a medical board at AIIMS to evaluate his condition. The said order reads as under:

We request the Director of AIIMS, New Delhi to constitute a team for a thorough examination of the petitioner by admitting him as an in-patient. The said examination shall cover all ailments stated to be suffered by him. Needless to state that the petitioner shall be accompanied by an escort and for the petitioner's own assistance, his son, Thalal Hasoon will also be permitted to accompany him.

The petitioner shall be taken to the AIIMS, New Delhi within a period of two days from today and a detailed examination will have to be conducted on him as an in-patient after admission, within a further period of four days thereafter, as afore-stated. A report is to be filed by the Director, AIIMS, New Delhi after the completion of the said examination within a period of three days thereafter.



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13. Pursuant thereto, the petitioner was admitted to AIIMS from 14.11.2024 to 26.11.2024, and upon consideration of the medical report, the Hon'ble Supreme Court **dismissed** the plea for medical bail on 17.01.2025, while granting liberty to approach the learned Trial Court in case of any deterioration in his medical condition.

14. Thereafter, this Court notes that, the petitioner had moved an application before the learned Trial Court seeking permission to undergo treatment at a private hospital of his choice, which came to be dismissed *vide* a reasoned order dated 04.07.2025. Aggrieved thereby, the petitioner approached this Court by way of CRL.M.C. 5892/2025, which was disposed of with directions permitting the petitioner to obtain a second medical opinion from Apollo Hospital or any other hospital on the basis of his medical records. It is noted that the petitioner has, in terms of the said order, obtained a second opinion and placed the same on record.

15. This Court takes note of the fact that the petitioner, in terms of various judicial orders, has been receiving medical treatment at government hospitals including DDU Hospital, Safdarjung Hospital and, most importantly, AIIMS. It is also noted that a similar prayer seeking permission for treatment at a private hospital was earlier rejected by the learned Trial Court *vide* order dated 04.07.2025, observing as under:

“6. In the present application under consideration, accused has submitted about atmosphere of hostility qua him when he visits the hospital for treatment. Perusal of application shows that various incidents have been pointed out. The incidents are



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dated 15.03.2023, 07.8.2023 and 10.08.2023. It is not the case of accused that whatever treatment he is getting, it is not benefiting or there is no improvement in his health or in management of his health condition. It is not the case of applicant/accused that line of treatment of accused by AIIMS is such which is incorrect or deficit. It is not the case of applicant/accused that there is any kind of medical negligence resulting in worsening of health condition of accused/applicant. The fulcrum of grievance of applicant/accused in the present matter is of atmosphere of hospital being not congenial and accused being treated indifferently/inhospitality when he is taken to AIIMS.

7. It is matter of record that a family member of accused has been allowed to accompany him to AIIMS when he is taken there for consultation/treatment. The said family member is of the choice of applicant/accused. It is not the case of applicant/accused that he is not being allowed presence of said family member during this treatment. It is also matter of record that accused had requested for doctor to be assigned who is conversant with Malayalam language and that request was allowed after taking a report from the AIIMS regarding availability of doctor in the concerned area. It is not the case of applicant/accused that he is not being taken to such doctor. Hence, the discussion shows that the grievance of applicant/accused is limited to his the behavioral response of the doctor and not medical completion or line of treatment of AIIMS. For this, even if the contentions are accepted for arguments, the only measure which is required is to sensitized person concerned rather than to permit the accused with access to private hospital for treatment. One clarification was sought from Ld. Defence Counsel that if the grievance is only in respect of response of Doctors or qua line of treatment. It was submitted that grievance is qua line of treatment also. However, no specifications of any lack in treatment is given. Further, no particular plea qua this, is raised in the application under consideration. It is not in doubt that AHMS is one of the mot premier Institute of this country in medical field. No particular lapse in treatment could be pointed out to justify the need for treatment at any private institute.

8. In view of the above discussion, I do not find any merit in the present application. However, directions are issued to medical Superintendent of AIIMS to sensitize the doctors and other staff as well as to ensure that when accused is taken to



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hospital, he will be treated with full dignity. Monthly report of same be sent to court. Hence, present application stands disposed of being dismissed. Application stands disposed of accordingly. Copy dasti if desired. Copy of this order be sent to Jail concerned for informing applicant/accused accordingly.

16. This Court finds itself in agreement with the aforesaid view, particularly inasmuch as it is not even the case of the petitioner that he has been denied proper or adequate medical treatment. AIIMS, being a premier medical institution of the country, is well-equipped to address his medical needs. As regards the petitioner's grievance that the behaviour of certain medical personnel was not cordial, this Court is of the opinion that such a ground, in the absence of any material indicating deficiency in medical care, cannot justify a direction for shifting the petitioner to a private hospital.

17. It is further pertinent to note that when the petitioner had earlier approached this Court, the learned Predecessor Bench, while disposing of the petition, had only permitted the petitioner to obtain a second medical opinion from Apollo Hospital or any other hospital on the basis of his medical records, which was to be placed before AIIMS for appropriate consideration and re-assessment. The said limited nature of relief was granted considering the fact that a limited prayer was made before the Court at that point of time, which is clear from the reading of order dated 26.11.2025, which is set out below:

“1. The limited prayer being pressed by the learned counsel for the petitioner is that the medical record of the petitioner be provided to him in order to enable his family members to obtain second opinion from Apollo Hospital. It is also prayed that once the second opinion is received, the same may be



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allowed to be placed before AIIMS Hospital for re-assessment of the medical condition of the petitioner.

2. Learned Special Prosecutor appearing for NIA has no objection for grant of the aforesaid prayer.

3. Petitioner has been receiving the treatment from AIIMS Hospital since 2022.

4. Let a copy of the medical record be handed over to the petitioner to enable his family members to obtain second opinion from Apollo Hospital/any other hospital on the basis of such medical record.

5. The request regarding re-assessment by AIIMS on the basis of opinion so received from the Apollo Hospital/any other hospital is also accepted. The needful be done by the Superintendent Jail in this regard once the second opinion is placed by the petitioner before it.”

18. In the present petition, the petitioner has again sought permission to be treated at a private hospital of his choice. However, in view of the earlier orders passed by the Hon’ble Supreme Court directing his treatment at AIIMS, as well as the order of the learned Predecessor Bench permitting only a second opinion to aid treatment at AIIMS, this Court finds no merit in the said prayer. This is all the more so in the absence of any material on record to show any deficiency or inadequacy in the medical treatment being provided to the petitioner.

19. As regards the submission of the learned counsel for the petitioner seeking a second medical opinion from Apollo Hospital, this Court notes from the record that the concerned doctors of the Endocrinology and Neurology Departments of Apollo Hospital have opined that a meaningful opinion regarding the petitioner’s medical



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condition and line of treatment can be rendered only upon his physical examination. Similar observations have also been made by the doctors of Fortis Hospital, to the effect that no definite medical assessment can be undertaken without the patient being physically present.

20. In these circumstances, this Court is of the opinion that even though the petitioner is an accused, he is suffering from multiple serious medical ailments and is entitled to appropriate medical evaluation. Accordingly, in the interest of justice, it is directed that the petitioner be produced, *on one specified date, in the next week*, before the concerned doctors of the Endocrinology and Neurology Departments at Apollo Hospital for the limited purpose of obtaining a second medical opinion. After such examination, a copy of the medical report shall be handed over to the Jail Authorities as well as to the family of the petitioner. The petitioner's son, namely Thalal Hasoon, shall be permitted to remain present with him during such medical examination.

21. The report so obtained from Apollo Hospital shall thereafter be placed before the treating doctors at AIIMS, who shall consider the same for the purposes of further treatment and management of the petitioner. It is however clarified that the petitioner's treatment shall continue at AIIMS only.

22. It is further directed that the petitioner shall continue to receive all necessary medical treatment, as and when required, without delay,



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through the Jail Authorities and the concerned government hospitals. In the event the petitioner is required to be taken to any hospital, including in cases of emergency, his family members shall be informed promptly, and his son shall be permitted to remain present with him on the same terms as earlier directed. The Jail Authorities shall ensure strict compliance with these directions.

23. With above directions, the present petition is disposed of.

24. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

25. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MARCH 27, 2026/ns