

IN THE SPECIAL COURT UNDER P.M.L. ACT, GR. BOMBAY

ORDER BELOW EXH.100
IN
PMLA SPECIAL CASE NO.404 OF 2021

Madan Gopal Chaturvedi ... Applicant

Versus

Directorate of Enforcement,
Through the Assistant Director,
Zonal Office No.-1, Kaiswer-I-Hind Building,
Ballard Estate, Fort, Mumbai-400 001. ... Respondent

Appearance:

Mr. Mihir Gheewala @ Mr. Vivek Babar, Ld. Advs. for applicant.
Mr. Sunil Gonsalves, Ld. Spl. PP

CORAM : M. G. DESHPANDE,
SPECIAL JUDGE UNDER PML ACT,
(C.R.No.16)

DATE : December 2, 2021

ORDER

1. Applicant Madan Gopal Chaturvedi is accused No.11 in PMLA Special Case No.404 of 2021 and under trial prisoner since his arrest till date. His bail application was rejected on 23.10.2021. Eversince till date he has not preferred any bail application before the Hon'ble High Court. He is praying for temporary bail for a few days. The reason is that, on 17.11.2021 his wife slipped in the bathroom and fell on the hard bathroom floor and suffered grievous injury on her back, spine as well as head. Applicant's acquaintance took her to the hospital on 18.11.2021 to Axis Multispeciality Hospital. Where MRI scan and screening of the brain as well as the whole spine was undertaken. There was a substantial compression and injuries on L4-L5 of the spine and the same was revealed in MRI report. She was

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discharged on the same date i.e. on 18.11.2021 with advise of bed rest. However, her back injury and pain was aggravated. Therefore on 21.11.2021 she was re-admitted in Axis Multispeciality Hospital. Eversince she has been in the said hospital and suffering from Cerebral Concussion with Acute Prolapse Intervertebral Disc L4-L5 with cervical herniation. It is further contended that, she has difficulty in walking as sendation in left ankle. Applicant has two children who are completely dependent on his wife. His son and daughter are attending their education online. In 2020 applicant's elder son had suffered reciprocity problem and received treatment for the same. Applicant specifically contended that, due to these reasons he needs with children to assist and help them in their day-to-day activities. His children are completely alone as his wife is in the hospital and he has been jail since long i.e from 23.01.2021 till date. His family needs moral support as there is no one to look after them and the acquaintances have certain limitation. With this, it is prayed to allow the application on humanitarian ground.

2. Ld. Adv. Mr. Mihir Gheewala and Ld. Adv. Mr. Vivek Babar for the accused urged that, they are not praying any permanent bail. They do admit that their application was rejected. They have not preferred any other bail application before the Hon'ble High Court and made this application only for the first and last occasion. They are only praying for a very short period as far as possible to support the family, who are suffering great difficulties which cannot be shared with anyone as no near relatives or acquaintance is with them to stabilize the situation.

3. Enforcement Directorate (ED) by their say at Exh.100-A opposed this application and contended to reject the same. By way of their preliminary objections they have pointed out law laid down by the Hon'ble Supreme Court in the State of Gujarat Vs. Mohanlal Jitmalji Porwal and Anr. 1987 AIR 1321, regarding gravity of economic offence. ED further placed reliance on Y. S. Jagan Mohan Reddy Vs. Central Bureau of Investigation, [(2013)7 SCC 439]. With the help of Gautam Kundu Vs. Manoj Kumar [(2015)16 SCC 1], it is contended how the Hon'ble Supreme Court laid down that money laundering is a serious threat to the National economy and National interest. Section 3 of Prevention of Money Laundering Act, 2002 (for short "PML Act) is reproduced pointing out the concept of proceeds of crime. Again Sec.45 of PML Act is referred and contended that application is not maintainable. Background of the case and the facts involved therein is referred contending that, there is money laundering of Rs.200.30 Crore and the applicant was involved therein. With this, it is contended that on merit application is not maintainable and deserves to be rejected.

4. It is further contended that, before deciding the prayer made in this application, role of applicant-accused No.11 be considered and how his application was rejected. It is also contended that, the applicant is a influential person and he may influence the witnesses owing to his strong financial power. Application has to be treated with huge caution and due application of mind by keeping in mind the stringent view taken by the Hon'ble Supreme Court towards grant of bail in respect of economic offences. On this aspect law laid down by the Hon'ble Supreme Court in Y. S. Jagan Mohan Reddy Vs. Central Bureau of Investigation (supra) is once again referred and further contended to reject the application. Again Gautam Kandu Vs.

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Directorate of Enforcement, State of Bihar Vs. Amit Kumar, (2017)13 SCC 751 are relied on pointing out the gravity of offence. Reference is made to Abdul Rehman @ Nawali Vs. State, (Bail Application 865 of 2020) wherein it is referred about the allegations that Dr. Gajinder Kumar Nayyar was issuing fake medical certificates to accused/convicts and/or their family members. Reliance is also placed on Nilesh Shreeniwas Baswant Vs. The State of Maharashtra, wherein the Hon'ble High Court rejected the application preferred by the petitioner for regular bail on health grounds. With this, it is contended to reject the application.

5. Heard Ld.Advs. Mr. Mihir Gheewala @ Mr. Vivek Babar, for applicant and Ld. S.P.P Mr. Sunil Gonsalves at length. Ld. Adv. for applicant placed their reliance on the recent order of the Hon'ble High Court in the case of Surendra Pundalik Gadling Vs. Senior Inspector of Police, National Investigation Agency (Criminal Appeal No.220 of 2021, decided on 30.07.2021) wherein the Hon'ble High Court allowed the prayer made by accused for temporary bail, which was basically rejected by the Ld. Special Judge, NIA, Gr. Bombay. Wherein it is observed as,

“The submission on behalf of NIA that since the appellant had prayed for temporary bail to participate in the late rites/rituals and on account of the passage of time, the said cause does not survive, appears attractive at the first blush. However, on a humane consideration, which the circumstances of the case and the nature of the prayer warrant, the said objection appears untenable. It was not the prayer of the appellant that he should be released to attend the funeral of his deceased mother. The specific prayer was to release him so that he can join his family in performing the rituals. From this stand point, the claim of the appellant that the rites, rituals and condolence meeting, which have been kept in abeyance, are to be performed and held on the first death anniversary of his mother, cannot be said to be impracticable or untenable.”

6. Initially when this application was taken up for hearing and say of ED was called, Ld.S.PP Mr. Gonsalves submitted that, detail report of Axis Hospital Dr. Umesh Shetty regarding the exact status of illness and gravity thereof in respect of Karachi Chaturvedi i.e wife of the applicant, was called. Accordingly, Dr. Umesh Shetty, M.S. (Ortho) Medical Director, Axis Multispeciality Hospital, Andheri, Mumbai sent the papers in intact envelope by deputing his staff. Said envelope was opened in the presence of Ld. S.PP Mr. Gonsalves and Ld.Advs. for the applicant. Papers contents certificate issued by Dr. Umesh Shetty that Mrs. Ruchika Chaturvedi (wife of the applicant) is admitted to Axis Multispeciality Hospital on 18.11.2021 under Dr.Umesh A. Shetty on day-care basis with history of Slip from Bathroom with Giddiness and Severe Pain to Back. She has sustained '**Cerebral Concussion** with Acute Prolapse Intervertebral Disc L4-L5 with Cervical Disc Herniation C5-C6 Radiculopathy of Right Hand with Osteopenia'.

7. Symptoms are noted as 'Excruciating Radicular Pain with Tingling and Numbness in Right Upper Limb with Weakness in Grip Strength (Paralysis)-Motor Grading (4/5) and further Aggravation of Symptoms, **May Increase the Severity of Paralysis in Right Upper Limb**'. Secondly, severe back pain radiating to both lower limb. Unable to personal care. Thirdly, severe on and off Occipital throbbing headache with giddiness. (i) Requirements for such patient are prescribed as assistance/hospitalization for personal care. (ii) Strict bed rest 6-8 weeks, (iii) Intravenous Analgesic and Physiotherapy and (iv) Strict observation for Worsening of Symptoms. This is the medical treatment being provided to wife of applicant.

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8. Admittedly, after praying for calling the opinion and medical papers of Dr. Umesh Shetty, and on going through all the papers Exh.4 (colly.) Ld. S.P.P has not submitted any objection that all these medical papers are fake which are given by Dr. Umesh Shetty to the family members of accused No.11 for extraneous consideration and not for medical considerations to facilitate them in obtaining favourable orders of bail, as referred in Abdul Rehman Alias Nawali Vs. State (Bail Application No.865/2020) as relied upon by ED in their say. Even otherwise there is no contention of ED that, by filing such fake medical papers and opinion of doctor, applicant wants to get himself released on temporary bail by hook or crook. Apart from this, doctor Umesh Shetty is renowned Orthopedic and ED has not produced any document or prima-facie evidence to show that, he is well-known for issuing fake medical certificates to various accused persons like the present one to facilitate them for getting favourable orders from the Court. Applicant has not applied for permanent bail. He knows well that on merit his application was rejected. Even he has not preferred any bail application before the Hon'ble High Court. There is no dispute about his role. Though maximum contentions raised by ED in their say refer to the merit of the case and law relating to bail in an economic offence. On all these submissions already the application for bail on merit was rejected and the applicant has not challenged till date before the Hon'ble High Court.

9. It has to be noted that the temporary bail is prayed on humane ground. Situation mentioned in the application indicates that, applicant is in jail since 23.01.2021. His bail application was rejected. He has two children, son and daughter. Son is aged 16 year and daughter is aged 11 year. There is no to look after them as their mother

is admitted in the hospital. Acquaintances, who shifted her to the hospital have certain limitations and this fact cannot be ignored. Apart from this, it has to be noted that, in other offences for example offence against human body, family members of accused involved in offences against human body know well the background, conduct of the person accused and consequences of his act. However, economic offences are product of wise brains and accused persons involved therein are generally highly educated and qualified. Basically their families and children are never aware of what their father or bred winner is actually doing. One fine morning such person gets arrested and the family members cannot understand anything or the background or what crime their father/bred winner has made. Children of such accused who are born and brought up in moderately good background, have to face far reaching consequences for the act of their father. All this causes deep rooted impact on the family. In short, the families of economic offenders are completely unaware and blank about the conduct of their bred winners.

10. In the aforesaid background the situation mentioned in the application has to be considered with humane approach. There is no one except two children, in the family of the accused, to look after their mother. I have already noted above whatever medical papers forwarded by Dr. Umesh Shetty have no history like issuing fake medical certificates to the accused and their families for getting bail from the Court. When there is no history as such and Dr. Umesh Shetty is well known Orthopedic Surgeon in Mumbai, his opinion cannot be discarded by completely disbelieving him. Therefore, the impact on the children and genuine need of their father to cope up with the same is an ardent need which is reflecting from the application and medical papers.

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Therefore, I am of the opinion that, application deserves to be allowed purely on humane grounds with certain specific stringent conditions on applicant. With this, application is allowed as follows :

ORDER

1. Application is allowed as a first and last chance that, no further application on such ground or other, will be entertained or even for continuation of temporary liberty will be entertained after the lapse of period directed in this order.
2. The applicant be released on temporary bail from 06.12.2021 till 15.12.2021, purely on humanitarian ground, to attend circumstances prevailed upon his family due to hospitalization of his wife, on his furnishing PR bond of Rs.50,000/- and cash security of like amount.
3. ED is at liberty to depute their staff 24 hours to keep the applicant under their vigilance through out the above period at the expenses of the applicant. In that event if any abnormal situation ED staff comes across, should be immediately reported to the Court and ED.
4. ED shall submit the names of staff who are deputed for this purpose.
5. The applicant shall not tamper with the prosecution evidence in any manner whatsoever and shall not contact any of the prosecution witnesses for any purpose and also anyone who is anyway related to the present case.
6. The applicant shall surrender his passport with the Registrar (S) of this Court.
7. The applicant shall surrender before this Court without fail by 04.30 p.m. on 15.12.2021. Failure will result in serious consequences.
8. It is made clear that, no prayer for extension of period of bail, beyond 15.12.2021, will be entertained on any count whatsoever.

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9. Superintendent, Arthur Road Jail be informed that, this is temporary bail order and its tenure is as above. So that, accused No.11 will be allowed to resume the jail.
10. No application on the ground of personal illness of accused will be entertained in the background of the above order.
11. ED staff accompanying the accused should take care that, reasonable privacy be maintained through out the above period.
12. **Transcription of the order is ready and effect of this order will begin on 06.12.2021, so that, in the meantime ED can challenge this order and get stay for the same.**
13. Authenticated copy of this order be given to the parties.

Dt.: 02.12.2021

(M.G. Deshpande)
Spl. Judge under PML Act,
City Sessions Court,
Mumbai.

Signed on : 02.12.2021

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“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”	
02.12.2021 at 6.00 p.m. UPLOAD DATE AND TIME	(KISHOR PRAKASH SHERWADE) NAME OF STENOGRAPHER
Name of the Judge	HHJ M. G. DESHPANDE (COURT ROOM NO.16)
Date of pronouncement of judgment/order	02.12.2021
Judgment/order signed by P.O. on	02.12.2021
Judgment/order uploaded on	02.12.2021