

**Andhra Pradesh High Court**

**Bench: Justice T. Mallikarjuna Rao**

**Date of Decision: 31 October, 2023**

I.A.Nos.1 & 3 of 2023

CRIMINAL PETITION No.7951 OF 2023

**Sri Nara Chandra Babu Naidu .....Petitioner**

**Versus**

**The State Of Andhra Pradesh .....Respondents**

**Sections, Acts, Rules, and Article:**

Sections 437, 439, 482 of the Criminal Procedure Code (Cr.P.C.)

Sections 166, 167, 418, 420, 465, 468, 471, 409, 201, 109, 120-B of the Indian Penal Code, 1860 (I.P.C.)

Section 17-A of the Prevention of Corruption Act, 1988 (P.C. Act)

**Subject:** Interim Bail on Medical Grounds

**Headnotes:**

Interim Bail – Medical Grounds - Petitioner, a 73-year-old individual under judicial custody since 10.09.2023, seeks interim bail for medical examinations and treatment due to deteriorating health conditions including Diabetes Mellitus and Hypertrophic Obstructive Cardiomyopathy. Petitioner emphasized undertaking necessary medical tests and treatment under the supervision of his personal physician, accentuating the urgency due to existing ailments and new health complications. [Para 1-2, 6-7]

Medical Examination Reports - Series of medical examinations and reports underscored the petitioner's fragile health condition. The medical reports elucidated a necessity for a range of tests and possible surgeries, including an imminent cataract surgery for the petitioner's right eye, highlighting the inadequacy of medical supervision and facilities in jail that potentially exacerbate the petitioner's health. [Para 9-16]

State's Response to Bail Application - The Respondent-State refuted the claims of severe health deterioration, arguing that the petitioner's health was being adequately managed within the prison facilities, and contended that no grave chronic ailment was presented. The State emphasized on the gravity of the alleged offenses and the prima facie case against the petitioner, arguing against the grant of interim bail. [Para 3, 8, 16-17]

Judicial Discretion on Humanitarian Grounds - The Court, emphasizing the preservation of human life and the right to receive comprehensive and effective medical care, inclined towards granting interim bail on medical grounds. It was underscored that custody during the investigative phase should not be punitive and individuals with serious health issues should have access to adequate medical treatment. The Court also recognized the petitioner's significant societal standing and deemed there was no flight risk. [Para 24-29]

Interim Bail Grant - Interim bail granted to the petitioner for four weeks to undergo necessary medical examinations and treatment, subject to certain conditions including furnishing a bail bond, getting examined/treated at a hospital of his choice, and surrendering post the interim bail period. The Court stressed the importance of immediate, effective, and comprehensive treatment for the petitioner, especially regarding the required cataract surgery. [Para 30]

**Referred Cases:**

- State of U.P. vs. Gayatri Prasad Prajapat 2020 S.C.C. OnLine SC 843
- Satyendar Kumar Jain vs. Directorate of Enforcement 2023 S.C.C. OnLine SC 686

**Representing Advocates:**

Sri Siddharth Luthra and Sri Dammalapati Srinivas, learned Senior Counsel, appearing for the petitioner

Sri Ponnayolu Sudhakar Reddy, learned Additional Advocate General, for the Respondent-State

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**COMMON ORDER:-**

1. I.A. No. 01 of 2023 and I.A. No. 03 of 2023 have been filed under Sections 437 and 439 r/w. Section 482 of the Criminal Procedure Code (Cr.P.C.). These applications pertain to Crime No. 29 of 2021 of C.I.D., Police Station, A.P., Amaravati. The petitioner has filed these applications, in conjunction with the main Criminal Petition No. 7951 of 2023, seeking interim bail to facilitate the undertaking of necessary medical tests and treatment under the supervision of his personal physician.

2. The case of the petitioner, is that, a case was registered against him *vide* Crime No.29 of 2021 under Sections 166, 167, 418, 420, 465, 468, 471, 409, 201, 109 r/w. Section 120-B of Indian Penal Code, 1860 (for short, "I.P.C.") and sections 13(1)(c) and (d) of the Prevention of Corruption Act, 1988 (for short, "P.C. Act") by C.I.D. Police Station, Mangalagiri. He was detained on 08.09.2023 at 11 P.M. and was arrested on 09.09.2023 at 6 A.M. for the aforesaid crime. The petitioner is an old person of 73 years of age, who, due to inadequate medical supervision and lack of facilities in the Jail is facing health complications on account of his continued incarceration. Prior to his arrest, he was in continuous medical care of his personal doctors, and he is not able to get medical management, which he was getting since a long period. Due to which, the health of the petitioner is deteriorating day by day and it could become life threatening and beyond the realm of control by the jail authorities.

(i) The petitioner has suffered from Erythematous Popular Rash over his front chest, back palms and on intergluteal region. The Medical Report dated 14.10.2023 submitted by team of doctors after conducting medical examination of the petitioner reveals that the petitioner is a known case of Diabetes Mellitus from 15 years and is under continuous treatment and also suggests that he is a known case of Hypertrophic Obstructive Cardio Myopathy and was treated with cardiac evaluation in December, 2022.

(ii) The medical report dated 17.10.2023 prepared by Government doctors has advised to conduct following medical tests of the petitioner; Complete Blood Picture, Renal Function Test, Liver Function Tests, Serum Electrolytes, Coagulation Profile, HbA1C, Complete Urine Examination, ECG, X-Ray, Chest, 2d Echo. As such, the petitioner wishes to undertake the above medical tests from the team of doctors of his own choice.

The above tests include the tests of vital organs like heart and lungs. As such, the petitioner seeks for interim bail.

3. A counter filed by the Respondent/State, denying all the allegations made in the petitions, contending that it is a settled proposition of law that the Courts should look into the prima facie case against the accused, the scope and gravity of the alleged offence while granting bail/interim bail. As per the conspiracy, the petitioner colluded with A.1, A.2, A.6, A.8 and others; the Skill development project was specifically allotted on a nomination basis with malafide intention of causing wrongful gain to himself and others accused and caused wrongful loss to the Government Exchequer. The gravity of the alleged offence, *prima-facie* material being available against the petitioner, and the need to examine the then Personal Secretary to the petitioner/A.37, Mr Pendyala Srinivas, Mr Manoj Vasudev Pardasany and Mr Kilaru Rajesh, a close associate of Nara Lokesh and collection of Bank details about the petitioner. The petitioner did not cooperate with the Jail authorities, persisting with his stand of not undergoing any tests unless his family Doctor was consulted. There was no response from Smt.

N. Bhuvaneshwari for the two letters dated 16.10.2023 and 25.10.2023 about getting an opinion from their family doctor. There is no truth in the averment that the delay in undertaking such a Cataract operation can have debilitating impacts on the vision of the petitioner. A dedicated team of guarding staff are monitoring the CCTV Surveillance System in the prison, and they are constantly monitoring the petitioner's security.

4. Heard Sri Siddharth Luthra and Sri Dammalapati Srinivas, learned Senior Counsel, appearing for the petitioner and Sri Ponnayolu Sudhakar Reddy, learned Additional Advocate General, for the Respondent-State.
5. Now, the question to be decided at this stage is:

***“Whether the petitioner/A.37, who is in custody, is entitled to interim bail on medical grounds?”***

6. The Learned Senior Counsel, for the petitioner, contends that the petitioner is a 73-year-old individual who has been in judicial custody since 10.09.2023. During his period of incarceration, the petitioner has faced difficulties in accessing necessary medical care, resulting in an Erythematous Rash affecting his chest, back, palms, and intergluteal region. To

substantiate this claim, reference is made to a medical report dated 14.10.2023, which was provided by a team of Government Doctors.

7. The learned Senior Counsel for the petitioner further contends that it is not disputed that the petitioner has been diagnosed with Diabetes Mellitus for a period of 15 years and has been receiving consistent medical care for this condition.

Furthermore, the petitioner has a known case of Hypertrophic Obstructive Cardiomyopathy, for which cardiac evaluation was conducted in December 2022. A medical report dated 21.10.2023 recommends that the petitioner undergo a series of tests, including assessments of vital organs such as the heart and lungs.

8. Sri Ponnayolu Sudhakar Reddy, the learned Additional Advocate General, contends that there is no justifiable reason for granting interim bail as the petitioner's condition remains stable. Additionally, he contends that the petitioner's medical conditions are not severe, and he is receiving the necessary medical care within the prison premises and that the petitioner's weight has increased from 66 Kgs to 67.5 Kgs. Therefore, it is requested that the interim bail application be dismissed.
9. On the other hand, the learned Senior Counsel for the petitioner argues that the petitioner underwent Cataract surgery in June 2023. Due to an apparent disparity in the petitioner's vision, it has been advised that he undergo Cataract surgery for the right eye at the earliest, as any delay in this operation could lead to a significant deterioration in his vision. To support this claim, reference is made to a certificate issued by the LV Prasad Eye Institute, dated 21.10.2023. Wherein it is observed as follows:

*"The petitioner was reviewed on 25.03.2023. His intraocular pressures were borderline, and he had a visually significant cataract. He underwent Cataract extraction with intraocular lens implantation in his left Eye on 21.06.2023, under the cover of pressure-lowering medications. That Eye recovered well in the next 3 weeks. However, there remained a noticeable disparity in vision between his right and left Eye, and hence was advised cataract surgery in the right Eye within 3 months".*

10. Upon reviewing the mentioned certificate, it becomes apparent that the petitioner is advised to undergo surgery within three months from

21.06.2023, which differs from the interpretation provided by the learned Additional Advocate General, who cited 21.10.2023 as the relevant date for consideration.

11. Dr P. Naveen Chander Reddy, MD, Consultant Physician, Medical Director, A.I.G. Hospitals, issued a Certificate dated 11.10.2023 about the health condition of the petitioner, which is as follows:

*"Mr Nara Chandra Babu Naidu, aged 73 years, has been our patient for a long time. He has the following health ailments – Hypertrophic Cardiomyopathy, Diabetes Mellitus and Skin disorder.*

*And on regular checkups and treatment with our team of doctors.*

*Given these cardiac and skin conditions, he's advised to keep himself well hydrated and maintain a cold environment around him since dehydration and a hot environment might precipitate cardiac complications like arrhythmias or heart blocks. He might require a checkup at our hospital if any of these ailments need to be addressed."*

12. Dr B. Srinivasa Rao, Civil Surgeon Specialist, Government Hospital, Rajamahendravaram, addressed a letter dated 25.10.2023 to the Jail Superintendent, Central Prison, informing that on 25.10.2023 he examined the petitioner for an eye checkup for a complaint of defective vision Right Eye and stated as follows:

**"On examination:**

Left Eye – Pseudophakia

Right Eye – Immature Cataract with normal papillary reflexes.

Hence, the right Eye is also advised for IOL Surgery."

13. On the same day, i.e. 25.10.2023, Dr. B. Srinivasa Rao, addressed another letter to the Superintendent, clarifying that the eye condition of the petitioner is not of a serious nature and does not necessitate immediate surgery. Specifically it is mentioned that the cataract in the right Eye is still in an immature stage, and he can undergo IOL surgery at his convenience. The two letters penned by the same Doctor to the Superintendent of Central Prison, serve as a compelling reminder to the Court as to what

significance/importance has to be attached to the certificates issued by the Government Doctors.

**14.** The learned Senior Counsel representing the petitioner argues that the petitioner is more susceptible to the complications due to weight loss and ongoing health issues. In response, the learned Additional Advocate General has relied on medical records to dispute the claim that the petitioner has experienced weight loss. It is further asserted that the petitioner has actually gained more than 1.5 Kg, totaling 67.5 Kg.

**15.** The team of doctors (1) Dr Markandeyulu, MD Gen. Medicine (2) Dr Ch.V.V. Siva Kumar, MS Gen. Surgery (3) Dr Ch. V. Suneetha Devi, MD D.V.L. (4) Dr B.V.V.N. Mahendra, MD Anaesthesia and (5) Dr S. Himaja, MD Pathology submitted a report dated 19.10.2023, 20.10.2023, 21.10.2023, 23.10.2023 and 26.10.2023, wherein the petitioner is advised the following investigations:

*“Complete Blood Picture, Renal Function Tests, Liver Function Tests, Serum Electrolytes, Coagulation profile, HbA1C, Complete Urine Examination, E.C.G., X-Ray Chest, 2D Echo.”*

**16.** The Respondent-State has relied these reports to argue that the petitioner has been managing his health reasonably well and is not afflicted by any chronic ailment. In a letter dated 26.10.2023, addressed from the Superintendent of Central Prison, Rajamahendravaram to Sri M. Dhanunjayudu, the Investigation Officer, wherein it was conveyed that the Medical Team, in their medical report, had recommended specific investigations for the remand prisoner. Additionally, he informed the Investigation Officer that all these recommended investigations could be carried out within the facilities of the Jail Hospital.

**17.** The learned Additional Advocate General placed on record a G.O.Rt.No.683, dated 22.07.2022, wherein it is described as follows:

*“2. The Director General of Prisons and Correctional Services, Andhra Pradesh, Mangalagiri, has given the details of the issue and has framed certain guidelines for approval of the Government and proposed to constitute a Committee for each District with Chairman and 3 Members to study the case of the Prisoner in-depth and decide whether the case is genuine and the Prisoner is suffering from a life-threatening disease and he requires treatment in a Network Hospital or not and has requested the Government for issue of necessary orders”.*

**18.** Based on the available material, it is evident that the petitioner was recommended to undergo Cataract surgery for the right eye within three months from 21.06.2023. This Court views that it would be unreasonable for a prudent individual to seek Cataract surgery solely for the purpose of obtaining bail. If that is so, the petitioner need not have waited till 25.10.2023 to come up with this petition. Considering the petitioner's age, this Court finds that it is quite probable to suffer from such old age ailments. There is no material casting doubt on the authenticity of the certificates relied on by the petitioner. In the second report also, Dr. B. Srinivasa Rao did not state that the petitioner need not require surgery. Consequently, this Court does not find it necessary to compel the petitioner to appear before a Medical Board, as suggested by the learned Additional Advocate General.

**19.** The learned Additional Advocate General placed reliance on a decision reported in ***State of U.P. vs. Gayatri Prasad Prajapati***<sup>1</sup>. After going through the decision, this Court finds that it cannot be made applicable to the facts of this case, as in the said case the High Court has not referred and considered the reports of the S.G.P.G.I.M.S., i.e. Super Specialty Hospital, which was on the record as well as the report of the medical board.

**20.** Learned Senior Counsel for the petitioner placed reliance on a decision of Hon'ble Apex Court in ***Satyendar Kumar Jain vs. Directorate of Enforcement***<sup>2</sup>, wherein it is observed that:

*"2. The Additional Solicitor General representing the Enforcement Directorate opposed such prayer and pressed*

<sup>1</sup> 2020 S.C.C. OnLine SC 843

<sup>2</sup> 2023 S.C.C. OnLine SC 686

*for independent medical examination before the All India Institute of Medical Sciences [A.I.I.M.S.].*

*3. After hearing learned counsel for the parties, there is no reason to disbelieve the Report of G.B. Pant Institute of Post Graduate Medical Education and Research. It is appropriate that the citizen has a right to take treatment of his choice, at his expense, in a private hospital.*

**21.** Evidently, the petitioner herein preferred a Special Leave Petition, seeking to quash the F.I.R. No.29 of 2021 registered by C.I.D. P.S., A.P. Amaravathi, Mangalagiri, dated 09.12.2021, on the ground that the same has been initiated without obtaining sanction as mandated by Section 17-A of the Prevention of Corruption Act. The learned Additional Advocate



General argues that in the Special Leave Petition, the petitioner had also requested ex-parte ad-interim bail. So, the petitioner should have refrained from seeking the same relief before this Court.

**22.** The learned Senior Counsel for the petitioner brought to the notice of this Court the averments made in the interim bail application, which reads as follows:

*"The petitioner challenged the Order dated 22.09.2023 before Hon'ble Supreme Court vide S.L.P. (C.R.L.) No:12289/2023. On 17.10.2023, the arguments of all the parties were concluded and the judgment was reserved by Hon'ble Supreme Court. That the petitioner has sought interim relief in such petition also, however, the same has been reserved for final orders now and in fact on the submissions made across the bar in the Supreme Court, all the issues in relation to regular and interim bail (sans 17A P.C. Act), were left to be agitated before this Hon'ble Court".*

**23.** Taking into account the arguments put forth on behalf of the petitioner, this Court finds that the petitioner's pursuit of a Special Leave Petition to challenge the F.I.R. does not preclude him from seeking bail from either the Special Court or the High Court. It is nobody's case that an application has been moved on behalf of the petitioner seeking interim bail on the health grounds and has been pending for consideration before the Hon'ble Apex Court. This Court does not find merit in the argument put forth by the learned Additional Advocate General, which suggests that the petitioner's bail application should not be considered until the quash petition is adjudicated.

**24.** At this stage, it is profitable to refer to the observations made in the decision of Hon'ble Apex Court in ***Pt. Parmanand Katara vs. Union of India***<sup>1</sup>, wherein the Hon'ble Apex Court has also emphasized the preservation of life both of an innocent person or a criminal liable to punishment, in the following words:-

*".....7. There can be no second opinion that preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored as resurrection is beyond the capacity of man. The patient whether he be an innocent person or be a criminal liable to punishment under the laws*

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<sup>1</sup> (1989) 4 SCC 286

*of the society, it is the obligation of those who are in charge of the health of the community to preserve life so that the innocent may be protected and the guilty may be punished. Social laws do not contemplate death by negligence to tantamount to legal punishment."*

**25.** This Court places the health and well-being of an individual as the foremost consideration, irrespective of the gravity of the alleged offense. It's important to recognize that custody during the investigative phase should not be perceived as punitive. Every individual has the inherent right to receive comprehensive and effective medical care. This Court firmly upholds the belief that individuals in custody with serious health issues should be granted access to adequate and effective medical treatment. The exercise of discretion in granting interim bail on medical grounds should not be restricted to circumstances where the person's life is in immediate peril. Moreover, there is no conflicting medical report indicating that the petitioner's surgery is unnecessary. The undisputed fact remains that the petitioner is suffering from specific ailments that demand medical attention, particularly regarding his right eye.

**26.** This Court is of the opinion that there is no remote possibility that the petitioner would evade the judicial process or pose a flight risk. It has been submitted that the petitioner has strong ties within society and is a respected figure, having previously served as the Chief Minister of Andhra Pradesh and currently holding the position of Opposition Leader and sitting Member of the Legislative Assembly.

**27.** Furthermore, it is this Court's steadfast belief that a patient in need of medical attention should be granted immediate, effective, and comprehensive treatment. Additionally, the choice of the medical facility for treatment should remain with the patient.

**28.** Considering the painful and pressing nature of the petitioner's reported health conditions, and without delving into the merits of the case, this Court is inclined to grant interim bail solely for the purpose of allowing the petitioner to undergo the necessary medical examination. The medical report clearly indicates that the petitioner requires cataract surgery on his right eye. Therefore, it is a reasonable proposition to permit him to seek treatment at the same hospital where he had the surgery for his left eye.

**29.** With a humanitarian perspective in mind and considering the petitioner's health condition, this Court is inclined to grant temporary bail on

health grounds to the petitioner/A.37, enabling him to undergo the required surgery on his right eye.

**30.** In the facts and circumstances of the case, both petitions are **allowed**; the petitioner/A.37 is entitled to interim bail on medical grounds for Four (4) weeks from today, on the following conditions:-

- 1)** The petitioner shall furnish a bail bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties of the like amount to the satisfaction of the Trial Court;
- 2)** The petitioner shall get himself examined/treated at a hospital of his choice at his expenses.
- 3)** The petitioner shall provide the details about the treatment given to him and the hospital where he got treated, in a sealed cover, to the Superintendent, Central Prison, Rajamahendravaram, at the time of his surrender, who in turn, shall forward the sealed cover intact to the trial Court.
- 4)** The petitioner shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case to dissuade him from disclosing such facts to the Court or any other authority.
- 5)** The petitioner shall surrender himself before the Superintendent, Central Prison, Rajamahendravaram, on or before **28.11.2023 at 5 P.M.**

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