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

+ **Bail Appln. No. 1414/2011 & Crl. M.B.1744/2011**

% Order delivered on: 24th October, 2011

AMAR SINGH

..... Petitioner

Through : Mr. D.C. Mathur, Sr. Adv.
with Mr. N. Hariharan, Advocate

versus

STATE & ORS.

..... Respondent

Through: Mr. Mohan Parasaran, ASG
with Mr.. Pawan Sharma, Standing Counsel
(Crl.), Ms. Rajdipa Behura, APP for the State,
Ms. Laxmi Chauhan, Adv. and Mr. Harsh
Prabhakar, Advs.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers
may be allowed to see the judgment? YES
2. To be referred to Reporter or not? YES
3. Whether the judgment should be reported YES
in the Digest?

SURESH KAIT, J. (Oral)

1. The instant petition has been filed to release the petitioner on bail.
2. Mr. D.C. Mathur, learned Senior Counsel appeared for the petitioner and submitted that vide the impugned order dated 28.09.2011, the Id. Special Judge has declined to grant regular bail to the petitioner/accused.

3. Ld. Senior Counsel has further submitted that an FIR No.14/2009 was registered with the crime Branch of the Delhi Police on 29.01.2009 under Sections 8 and 12 of the Prevention of Corruption Act, on receipt of a complaint from the Secretary General of Lok Sabha, in light of the recommendations and conclusive findings given by the Joint Parliamentary Committee regarding an incident which took place on the Floor of the House on 22.07.2008 during the vote of confidence motion, whereby three BJP MPs had shown wads of currency notes during session in the parliament house, amounting to Rs.1 crore.

4. The investigating authority filed charge-sheet followed by supplementary charge-sheet and the petitioner was directed to appear on 06.09.2011 before the Ld. Special Judge.

5. Further submitted that in spite of the bad health of the petitioner, he appeared on the said date, thereafter he was ordered to be sent in judicial custody.

6. Thereafter, the health of the petitioner started deteriorating day by day and finally on 12.09.2011 the petitioner was referred by the Board of Doctors to AIIMS and since then he is in the hospital.

7. Ld. Senior Counsel has drawn the attention of this Court towards the medical report dated 11.10.2011 of Dr. Sanjay Gupta, Addl. Professor,

Deptt. Of Nephrology, AIIMS which is reproduced as under:-

**“Comprehensive Medical Report of Shri Amar Singh,
Hon’ble MP, Rajya Sabha**

On 12th September, 2011 Sh. Amar Singh, 55/M, was referred by the board of four Doctors of GB Pant and LNJP Hospital to AIIMS in view of multiple ailments. He came to AIIMS emergency at 08.06 pm on 12th September. He complained of burning micturation (pain irritation while passing urine), decrease in urine output, and diarrhea of 4 days duration. In view of his clinical condition he was admitted for evaluation, monitoring and management. Shri Amar Singh has long standing hypertension, diabetes mellitus, hypothyroid on medication. He had undergone bowel resection in 2001. Subsequently, he developed renal failure requiring renal transplant in September, 2009. Since then he is on double drug immunosuppression ie Tacrolimus and Mycophenolate mofetil. His serum creatinine ranges from 0.8 – 1.0 mg/dl (baseline). Recently due to diarrhea episodes and urinary tract infection, his S. Creatinine has arisen to 1.6 mg/dl suggesting graft dysfunction. The urinary culture grew Ecoli Sensitive – Amikacin, Ciprofloxacin, Imipenem, Levofloxacin, norfloxacin.

Diagnosis: Post Renal transplant, acute allograft dysfunction, urinary tract infection, diarrhea, dehydration, diabetes, hypothyroid hypertension.

On admission he was started on i/v fluids and i/v antibiotics. On 13th September he had fever with chills and the WBC counts increased to 13300/mm³ suggestive of spreading infection. Repeat urine examination shows plenty of pus cells suggestive of severe UTI. The S creatinine was fluctuating between 1.3-1.6 mg/dl (normal for him is 0.8-0.9 mg/dl). He had persistent tachycardia. He continued to have vomiting and diarrhea for which Gastroenterologist had suggested autonomic function tests and endoscopy with mucosal biopsy. For his anxiety and restlessness a psychiatry consultation was sought. Psychiatrist suggested measures to decrease his anxiety. With treatment his renal parameters have steadily improved from S creatinine 1.66

mg/dl it has decreased to S creatinine 1.1-1.2 mg/dl (6th October). The pain while passing urine has also decreased, now he is afebrile.

However his urine examination is still suggestive of urinary tract infection and urine culture grew *Proteus Vulgaris* again (4th October report) and antibiotics as per culture sensitivity report is added. Meanwhile Tacrolimus level came as 4.2ng / ml which is lower for him so does of Tacrolimus was increased by 0.5 mg to 1 mg twice a day. Increasing the dose of immunosuppressive drug (Tacrolimus) has made him more prone to infections but same is required to prevent allograft rejection. The repeat tacrolimus drug level came as 7.2ng/ml i.e. within the limits required for the transplanted kidney. With increase in Tacrolimus dose his blood sugars are fluctuating and with the advice of endocrinologist, the blood sugars are now being controlled by adding insulin. US abdomen showed mild hydronephrosis of allograft and grade 1 prostatomegaly with insignificant post void residue i.e within normal range. The thyroid function test is within normal limits. Lipid profile is also within normal limits. On 24th September he underwent nerve conduction studies for assessment of peripheral neuropathy. That was consistent with small fiber neuropathy. He was also investigated for atherosclerotic vascular disease by Doppler US that suggested partially occluded peripheral artery disease. Echocardiography reveals EF 60% mild left ventricular hypertrophy. Stool culture did not grow any pathogenic bacteria. Prostatic specific antigen was 1.02ngm/ml within normal limits. Cytomegalovirus PCR was <600 copies / ml (within normal limits). For diarrhea IgA Anti TTG 1.72u/ml (normal 01. To 20.0). He continues to be afebrile and the dysuria is less. The antibiotic need to be continued till the urine infection subsides and his renal parameters touch his baseline (near baseline). For last 4 days he is also having upper respiratory infection. Presently his S. creatinine is 1.18 mg/dl (higher than his baseline). Recently his blood pressure has increased may be due to situational anxiety. He is not having proper sleep due to anxiety. The blood sugars vary between 120 to 230 mg/dl (on higher side) and he is on insulin for the same. Yesterday the frequency of loose motions increased to 20-

25/day and was seen by physician who opined that in view of his immunosuppressed state, reactivation of tuberculosis cannot be excluded and advised him to undergo PET CT. He needs to be monitored for renal functions and managed accordingly. Following discharge he needs to be in clean, hygienic and highly sanitized environment. He should avoid crowded places, un-sanitized environment to prevent getting infected. Unhygienic environment may lead to repeated infections leading to sepsis. The people around him should have not any communicable disease. The food for him should be proper hygienic and free from any microbes. Drinking water should similarly be free of microbes. He needs to have small frequent meals that are required due to diabetes and short gut syndrome. He needs take medicines and follow a routine as directed to prevent any transplant kidney function deterioration. He needs to be constantly monitored for renal function, infections and if he is travelling he should be under supervision of a nephrologist, a dialysis technician, a nurse and should use ambulances / air ambulance for any emergency.

4.30 PM

Just now he complained of heaviness in chest and nausea. He has been by a Cardiologist and he advised for an EKG and Troponin. The tests are being done. For this new development he is still being evaluated by the cardiologist and is being monitored.”

8. Further submitted that the Trial Judge should have granted bail to the petitioner, keeping the provisions under Section 437 of the Code of Criminal Procedure, 1973 into view. For the sake of convenience, the relevant portion of the aforesaid Section is re-produced below:-

“437. When bail may be taken in case of non-bailable offence – (1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the

High Court or Court of Session, he may be released on bail, but-

(i)

(ii)

Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm.”

9. Vide order dated 13.09.2009, interim bail was granted to the petitioner/accused on medical grounds. Thereafter, vide order dated 28.09.2011, the ld. Special Judge declined to grant regular bail to the petitioner keeping in view the report dated 26.09.2011 as the condition of the petitioner was shown stable but it require monitoring.

10. Further it was submitted that the ld. Special Judge did not go through the said report wherein it was clearly mentioned that “for his anxiety and restlessness a psychiatry consultation has also been sought. On 13th September night he developed severe abdominal pain which got relieved by medicine given by gastroenterologist and he further advised X-ray abdomen to be done in morning time, that was done next day and was found within normal limits. On 14th September, the doctor further said he was feeling better and remained afebrile even though urine examination continued to be suggestive of urinary infection. The petitioner continued to have loose motions and was seen by gastroenterologist who further advised him to

undergo Barium enema plus, barium enteroclysis. Psychiatrist suggested measures to decrease his anxiety. The renal parameters continue to fluctuate; S creatinine was 1.48 mg/dl which was higher than his baseline.”

11. The aforesaid report further stated that “on subsequent days the renal parameters further improved to 1.25 mg/dl but did not touch baseline even though urine examination still showed high pus cells. He continues to have frequent loose stools 5-8 times a day which seems to be due to short bowel which he has. The stool examination was within normal limits and stool occult blood was negative. The other causes of diarrhea are being investigated. The thyroid function test on 21st September was within normal limits. Lipid profile was also within normal limits. With increase Tacrolimus dose his blood sugars are fluctuating and Endocrinologist has suggested to add Tab Januvia 100 mg before breakfast. On 24th September he underwent nerve conduction studies for assessment of peripheral neuropathy. That was consistent with small fiber neuropathy. Further Tacrolimus drug levels and blood CMV DNA test were sent to laboratory. He is being planned for DTPA scan to assess renal function perfusion. Meanwhile, he is being investigated for atherosclerotic vascular disease by Doppler US. He continues to be afebrile and less dysuria. He has multiple motions per day. The antibiotic need to be continued till the urine infection subsides and his renal parameters touch his baseline (near baseline). He

needs to be monitored for renal functions and managed accordingly. Following discharge he needs to be in clean, hygienic environment. He should avoid crowded places to prevent getting infected. He needs take medicines and follow a routine as directed to prevent any transplant kidney deterioration.”

12. It was further submitted that the trial judge has taken into view the report dated 10.09.2011 wherein it is stated that every effort was being made by the prison administration to have him examined by various super specialists in view of the medical history of renal transplantation, intestinal resection, Diabetes Mellitus, hypertension etc. It is reiterated that so far he has been shown to the following doctors:

1. D. R.S. Ahlawat, Professor of Medicine and Nephrology, LNJP Hospital.
2. Dr. Sanjay Schdeva, Associate Professor, Gastroenterology, G.B. Pant Hospital.
3. Dr. Neera Chaudhary, Associate Professor, Neurology, G.B. Pant Hospital.
4. Dr. Anuj Mittal, Psychiatrist, Central Jail Tihar.
5. Dr. Jwala Prasad, Senior Resident, Central Jail Tihar.

13. Accordingly, the interim bail was granted to the petitioner.

14. Ld. Counsel for the petitioner has further submitted that the doctor at Singapore had written a letter to the petitioner on 18.09.2009 which is a page 228 of the paper book wherein it is mentioned as under:-

“Mr. Amar Singh is a 53 year old man who had undergone an uncomplicated living donor kidney transplant on July 1th 2009. The aetiology of his end stage kidney disease is uncertain and is likely to be multifactorial related to hypertension and possibly renal oxalosis. His past history was significant for extensive small bowel resection for presumed small bowel tumor which turned out to be small bowel tuberculosis. He had completed a course of anti-tuberculous treatment with complete clearance. A pre-transplant PET-CT scan was performed because he had a positive TB spot test. However, the PET-CT scan results did not show any abnormality to suggest occult active tuberculous infection anywhere. His HLA antibody screen by flow cytometry was negative for any anti-HLA antibodies. His conventional cytotoxic crossmatch was negative for both T and B cells. “

15. Thereafter when the petitioner was taken into custody on 06.09.2011 the said doctor at Singapore has again wrote a letter, the relevant portion of which is as under:-

“ Mr. Amar Singh is a 55 year old patient who had undergone a kidney transplant. He has recurrent urinary tract infections and is on continuous antibiotic prophylaxis to prevent infections. He had also undergone extensive small intestinal resection and he has features of short gut syndrome and is subjected to chronic diarrhea. His absorption of nutrients is erratic and he often gets low magnesium/low albumin levels and high serum creatinine levels which requires frequent and regular monitoring. His transplant kidney may be jeopardized and permanently damaged without regular assessments.

In view of his need to take daily immunosuppressants, he is at high risk of contracting infections which may potentially be fatal to him.

He can only consume hygienic food because of his history of small bowel resection and his immunosuppressed stage. He cannot be in crowded and unhygienic environment because of the risk of contracting an infection. He was scheduled to come to Singapore for his medical review on September 9, 2011.”

16. Therefore, the ill health of the petitioner is not due to the petitioner being taken into custody but otherwise his health condition is not well. However, after taking him into custody, his health condition started deteriorating to the extent that the doctors at AIIMS still are not able to handle him properly.

17. Further, he has submitted that only the doctors at Singapore, who had performed surgery by transplanting kidney, can handle the critical health condition of the petitioner, none else. Therefore, until he is released on bail his problems shall be continued.

18. Ld. Senior Counsel for the petitioner has further submitted that the charge-sheet filed against the petitioner is under section 12 of the Prevention of Corruption Act, 1988 and section 120-B of the Indian Penal Code, 1860 and if convicted 5 years would be maximum punishment.

19. The allegations against the petitioner are as under:-

“....During scrutiny of bank details it is found that there is an entry of deposit of Rs.One Crore in this account on 22.07.08. On further analysis it is found that there is a pattern of deposit of one crore amounts of cash in this account on many occasions which is regularly being spent by issue of various cheques. However, during investigation no further evidence could be found to connect Sh. Shyam Jaju with Sanjeev Saxena and further no evidence was found regarding delivery of bribe money by Shyam Jaju to Sanjeev Saxena on 22.07.2008.

During investigation details of bank accounts were obtained from Sh.Amar Singh and details of account of the same from 1.7.2008 to 30.7.2008 were obtained from concerned banks. The details of the Bank Accounts are as under:-

- (i) A/C No. 001790700000154 of YES Bank.
- (ii) A/C Nos. 814338 and 814356 of the Royal Bank of Scotland.
- (iii) A/C No.10023814782 SBI Parliament House, New Delhi.
- (iv) A/C No.0804010016004 United Bank of India Nehru Place, New Delhi.

The perusal of the Bank Account details reveals as under:-

- (i) Bank Account No. 001790700000154 of Yes Bank reveals that only Rs.1123 have been debited from this Account on 31.7.2008.
- (ii) Bank Account Nos.814338 and 814356 of RBS Bank reveals that there is no withdrawal from this account during the period 01.07.2008 to 31.07.2008.
- (iii) Bank Account No.10023814782 of SBI, Parliament House Bank reveals that only Rs.2000 have been withdrawn on 07.07.2008.
- (iv) Bank Account No.0804010016004 of United Bank of India, Nehru Place reveals that Rs.5,17,783.62/- have been withdrawn with effect from 01.06.2008 to 28.07.2008.

There is no abnormal withdrawal from these accounts of accused Amar Singh. Detailed efforts have been made to link the money trail, but there is no systems in the banks to record the number of currency notes at the time of payment to the customers.

20. Further submitted that the second charge sheet is verbatim of the first charge-sheet. When the police could not find anything against the petitioner in the first charge-sheet, therefore, with the ulterior motive the allegations are made against him in the supplementary charge-sheet without any substantial evidence.

21. The Id. Counsel has further submitted that even in the status

report filed by the State on 05.10.2011 it is stated as under:

“6. Exhaustive efforts were made during investigation from various bank branches to link the money trial. Parliamentary Committee had also tried to probe the money trial but as per report of Ministry Finance mentioned at Page No.33 that “banks are unable to trace out the person who has withdrawn the said bundles from respective branches as there is no system in the Banks to note the serial numbers of currency notes at the time of making payments to the customers.” Hence, although there is no evidence to link the money shown by BJP MPs in the well of Lok Sabha on 22.07.2008 with Sh.Amar Singh, MP, circumstantial evidence leads to the conclusion that the said money was sent by Sh.Amar Singh, MP.”

22. It was further submitted, even the Parliamentary committee has also not found any evidence against the petitioner. As per the finding of the Parliamentary committee, which reads as under:-

“(xii) The Committee are constrained to observe that the material on record does not conclusively prove that the money contained in the bag, which was eventually displayed in the House, was actually sent by Shri Amar Singh for the purpose of winning over Shri Ashok Argal, Shri Gaggan Singh Kulaste, and Shri Mahavir Bhagora, to vote in favour of Motion of Confidence.

(xiii) As there is no case against Shri Ahmad Patel and there is no clinching evidence against Shri Amar Singh,

there is no occasion for the Committee or the House to make a request to Rajya Sabha requiring the said two members to appear before the Inquiry Committee for evidence. There is also no occasion for referring the matter relating to complaint against the said two members to Rajya Sabha for examination, investigation and report.”

23. In the conclusion of the Parliamentary committee it is stated as under:-

IX. Recommendations

168. The Committee after taking into account their findings and conclusions in the matter [as detailed in para 141 particularly at (xiv) to (xvii) relating to the roles of Shri Sanjeev Saxena, Shri Suhail Hindustrani and Shri Sudheendra Kulkarni], recommended that this matter may be probed further by any appropriate investigating agency.

169. The Committee further recommend that the procedure for requiring appearance of member of one House before other House or Committee thereof, as recommended by the Committee of Privileges (Second Lok Sabha) in their Sixth Report in 1958, needs to be reviewed to bring it at par with the position as is obtaining now in Parliament of United Kingdom (as stated in para No.167 of the Report.).”

24. Ld. Senior counsel for the petitioner has further submitted that no doubt meetings were going on the Motion against the Government

on nuclear agreement. The Members of Parliament were contacting in person or on telephone to each other and were convincing on the issue. Therefore, if any of the MPs visited the house of the petitioner that does not mean that horse trading was going on at his residence. Even for the sake of argument, if the petitioner was so keen to purchase the Members of Parliament then he would not have lost 6 MPs of his own Party, i.e., Samajwadi Party. Five of them voted against inspite of the whip and one MP preferred to remain absent. Further submits, he is surviving with one kidney which was transplanted in the year 2009 at Singapore. The reports of the panel of doctors confirmed the same. In addition to that the medical report dated 11.10.2011 filed on the directions of this Court proves the medical condition of the petitioner to be very critical. He is suffering from multiple medical problems, therefore, keeping him in jail would be in-human act against the petitioner.

25. Ld. Counsel for the petitioner has relied upon the judgment of the Apex Court ***State of U.P. vs. Atique Ahmad***, (2002) 9 SCC 401, wherein it was held

“4. The learned Senior Counsel appearing for the appellant contended that the learned Single Judge having held that it was not a fit case for grant of full-term bail to the respondent erred in releasing

him on bail for the period of four months on medical grounds ignoring the fact that the State Government had made arrangements for treatment of the respondent in Medical College Hospital at Allahabad and in SGPGI Hospital at Lucknow while in custody. The learned counsel further contended that in view of the criminal record of the respondent who is involved in a number of cases involving heinous offences the application for bail should have been rejected. It was also the contention of the learned Senior Counsel that the observation in the order passed by the High Court that short-term bail was granted to the respondent with a view to keep a watch over his future conduct and activities during the period is wholly unsustainable in law.”

5.

6. We have considered the contentions raised by learned counsel for the parties. The observations in the order of the High Court that the applicant is allowed short-term bail also “with a view to keep a watch over his future conduct and activities during this period” does not commend to us. If a case for release of the applicant on bail is not otherwise made out, he cannot be released on bail for a limited period, only for keeping watch over his future conduct and activities during the period. That part of the order of the High Court is clearly unsustainable. However, the High Court, as noted earlier, granted bail to the respondent on medical grounds. It is not disputed before us that the respondent is suffering from certain kidney ailments for which he requires frequent medical attention. There is no allegation that during the period he has been on bail the respondent has been involved in commission of any crime or has misused the liberty granted to him in any manner. Moreover, a short period of about five weeks remains for the bail order to expire.

7. Considering the facts and circumstances of the case noted above, we are not inclined to interfere with the order passed by the High Court. After expiry of the period specified in the said order if any application for bail is filed by the respondent the same will be considered on merits without being influenced by the fact that this Court declined to interfere with the order granting bail to the respondent. We also make it clear that the order passed by the High Court in the case will not be cited as a precedent in any other case.”

26. Further submitted that in the case of **Atique Ahmad(supra)** the petitioner was suffering from kidney ailments for which he required frequent medical attention. Whereas in the present case kidney of the petitioner has been transplanted and further he is also suffering from multiple medical problems and infections including the kidney.

27. Ld. Senior counsel has also relied upon another judgment of the Supreme Court titled as **State of Maharashtra and others vs. Lalit Somdatta Nagpal and another**, (2007) 4 SCC 171 wherein the Supreme Court has observed as under:-

74. It may be indicated that during the pendency of the writ petition, this Court on a consideration of the medical condition of the petitioner permitted him to be treated in a private hospital, though under the custody of the respondents. We understand that the petitioner continues to be hospitalized. Having regard to the fact that we

have dismissed the Special Leave Petitions filed by the State of Maharashtra against the order of the Bombay High Court holding that the provisions of MCOCA had been misapplied to the facts of the case, the stringent provisions regarding bail under the MCOCA 1999 will no longer be attracted in this case. Since the petitioner has been under arrest since the date of his surrender on 1st July, 2005, and having further regard to his medical condition, we direct that the petitioner, Lalit Somdutt Nagpal, be released on bail to the satisfaction of the Chief Judicial Magistrate, Kolhapur. He will surrender his passport to the Chief Judicial Magistrate, Kolhapur, until further orders of the magistrate and will not leave the country without the prior permission of the magistrate and shall report to the Investigating Officer of the different cases as and when called upon to do so. Special Leave Petition (Crl.) No. 4581/2006 is accordingly allowed and the order of the Bombay High Court dated 14th July, 2006 refusing the petitioner's prayer for grant of bail is set aside.”

28. Further submitted that as observed in the case of ***Lalit Somdatta Nagpal and another(supra)***, on consideration of the medical condition of the petitioner permitted him to be treated in a private hospital though he was arrested under the provisions of MCOCA, 1999.

29. Ld. Senior counsel for the petitioner has further submitted that he is not arguing on the merit of the case at this stage though nothing substantial has been found against the petitioner, however, he is limiting his argument for bail considering the medical condition of the petitioner.

30. Further submitted, if ld. counsel for respondent is able to cross the

first hurdle, i.e., the ground taken on medical condition, then he reserve his right to argue on merit.

31. On the other hand Mr. Mohan Parasaran, learned ASG has submitted that no doubt the condition of the petitioner is very critical. The reports are authentic as the same are from the most prestigious institution of the country, i.e., AIIMS, therefore, on medical grounds they do not oppose the bail of the petitioner.

32. Further submitted, however, there are sufficient evidence against the petitioner, therefore, the charge-sheet against the petitioner finding evidence against him has already been filed.

33. Ld. ASG has very fairly conceded that the petitioner is not required for custodial interrogation, however, the only apprehension against the petitioner is that after coming out from the custody he may temper with the evidence or influence the witness.

34. On perusal of the medical reports, I note he had under gone bowel resection in 2001. Subsequently, he developed renal failure requiring renal transplant in September, 2009. Since then he is on double drug immunosuppression ie Tacrolimus and Mycophenolate mofetil. His serum creatinine ranges from 0.8 – 1.0 mg/dl (baseline). Recently due to diarrhea episodes and urinary tract infection, his S. Creatinine has arisen to 1.6 mg/dl suggesting graft dysfunction. The urinary culture grew Ecoli Sensitive –

Amikacin, Ciprofloxacin Imipenem, Levofloxacin, norfloxacin. Meanwhile Tacrolimus level came as 4.2ng / ml which is lower for him so dose of Tacrolimus was increased by 0.5 mg to 1 mg twice a day. Increasing the dose of immunosuppressive drug (Tacrolimus) has made him more prone to infections but same is required to prevent allograft rejection. The repeat tacrolimus drug level came as 7.2ng/ml i.e. within the limits required for the transplanted kidney. With increase in Tacrolimus dose his blood sugars are fluctuating and with the advice of endocrinologist, the blood sugars are now being controlled by adding insulin. He was also investigated for atherosclerotic vascular disease by Doppler US that suggested partially occluded peripheral artery disease. The blood sugars vary between 120 to 230 mg/dl (on higher side) and he is on insulin for the same. Yesterday the frequency of loose motions increased to 20-25/day and was seen by physician who opined that in view of his immunosuppressed state, reactivation of tuberculosis cannot be excluded and advised him to undergo PET CT. He needs to be monitored for renal functions and managed accordingly.

Following discharge he needs to be in clean, hygienic and highly sanitized environment. He should avoid crowded places, un-sanitized environment to prevent getting infected. Unhygienic environment may lead to repeated infections leading to sepsis. The people around him should have

not any communicable disease. The food for him should be proper hygienic and free from any microbes. Drinking water should similarly be free of microbes. He needs to have small frequent meals that are required due to diabetes and short gut syndrome. He needs take medicines and follow a routine as directed to prevent any transplant kidney function deterioration. He needs to be constantly monitored for renal function, infections and if he is travelling he should be under supervision of a nephrologist, a dialysis technician, a nurse and should use ambulances / air ambulance for any emergency.

35. Keeping the medical reports of the petitioner into view, it seems to me that the health condition of the petitioner is very critical. Even the doctor had advised him not to go in a crowded area and remain in a very hygienic condition to avoid infection. Obviously, the jail is not such a place where the condition as required could be made available.

36. Keeping in view the critical health condition of the petitioner as he had been continuously in Hospital since 12.10.2011 till date, therefore, on humanitarian grounds, I deem it fit to admit the petitioner on bail. Accordingly, it is directed that the petitioner shall be released on bail on furnishing a personal bond in the sum of Rs.1 Crore (Rupees One Crore only) with two sureties in the like amount to the satisfaction of the trial court, subject to the following conditions:-

- (i) He shall not leave the country without the permission of the trial court;
- (ii) In case, he leaves the country, he shall furnish all his stay particulars including the addresses of his stay with the trial court;
- (iii) The passport/s of the petitioner shall be deposited with the trial court, if not already deposited.
- (iv) He shall not influence any of the witnesses or temper with the evidence.
- (v) He shall remain present as and when called by the Id. Trial Court.

37. Needless to state if any of the above condition is breached, the investigating authority may take steps to get his bail cancelled.

38. Accordingly, the Bail Appln. No. 1414/2011 is allowed in the above terms.

39 At this stage, learned counsel for the petitioner submits that the surety amount is too high and he would not be able to arrange the same. At his request, the said amount is reduced to Rs.50 Lacs (Rupees Fifty Lakhs) with two sureties in the like amount to the satisfaction of trial court.

40. Since the main bail application has been allowed, the CrI.M.B.1744/2011 becomes infructuous and is dismissed as infructuous.

41. Dasti under the signatures of Court Master.

SURESH KAIT, J

October 24, 2011
RS