

ORDER SHEET
**IN THE HIGH COURT OF SINDH, CIRCUIT
COURT, HYDERABAD.**

C.P. No.D-2506 of 2019

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| DATE | ORDER WITH SIGNATURE OF JUDGE |
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For orders on office objection
For hearing of main case.

Mr. Justice Muhammad Iqbal Kalhoro.
Mr. Justice Khadim Hussain Tunio.

24.03.2020.

Mr. Umair Bachani, advocate for the petitioner.
Mr. Jangu Khan, Special Prosecutor NAB.

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MUHAMMAD IQBAL KALHORO,J:- This is a second petition filed by the petitioner for post arrest bail in reference No.13 of 2018 on medical ground. Earlier the petitioner had filed CP No.D-166 of 2019 for pre-arrest bail, which was dismissed by this Court vide order dated 21.03.2019. The petitioner approached to the Honourable Supreme Court of Pakistan for the same relief, however, the same was dismissed as withdrawn vide order dated 07.08.2019.

2. The allegation against the petitioner in brief are that pursuant to information with regard to fraudulent sale of Government land, situated at Deh Babbar Band, Tapo Hathal Buth, Thana Bola Khan, Jamshoro to DHA, Karachi, in the year 2015, an inquiry was conducted which was subsequently converted into investigation wherein it transpired that the petitioner in connivance with co-accused managed and processed fake and fabricated revenue entries in favour of the accused Mian Bux, Imam Bux, Javeed Hussain, Ghulam Dastagir, Muhammad Iqbal and Nazeer Ahmed and deceased Mian Khan Palari in the record of rights and sold out 731-28 acres of land to DHA in the year 2015 in consideration for 1.135 files of plot measuring 500 square yards each. Accordingly, in this way accused Mian Bux and Imam Bux received 300 plot files, while accused Javeed Hussain received 373 plot files and deceased Mian Khan Palari received 402 plot files.

3. Since the petition has been filed by the petitioner for post arrest bail exclusively on medical ground, vide orders dated 21.11.2019, 13.02.2020 and 03.03.2020, a medical board was constituted for examination of the petitioner. In compliance of that order, the medical board of Agha Khan Hospital, Karachi has examined the petitioner and has submitted their report, which is reproduced herein under:-

“Mr. Habib Ahmed (Patient) bearing medical record number 429-82-90 was diagnosed to have squamous cell carcinoma of right side of oral cavity, mandible and skin. He was operated on 2nd December 2019 for tumor excision, neck dissection and free fibula flap reconstruction of his mandible

and skin for right half of the face. He was seen by radiation oncologist who advised to have post-operative chemoradiations. He later on had Gastrostomy tube insertion and has currently received 23 sessions of radiotherapy out of 33 in total and weekly sessions of chemotherapy.

On examination Mr. Habib was sitting comfortably on the chair accompanied by his wife and brother. His vitals were within normal range including Pulse 91 beats/min, afebrile, Blood pressure 118/80 mmHg, respiratory rate 18 breaths/min and Galsgow coma scale was 15/15. On further examination there was blackening of right side of the face secondary to ongoing radiation therapy. Flap at the operative site is slightly lighter in color. He could not move his right angle of mouth and there was obvious dribbling of saliva. His mouth opening was limited to one finger breadth which made further intraoral examination difficult. Patient's speech was understandable however he had some difficulty in articulation of words. He had pooling of saliva and grade III radiation induced mucositis as verified by radiation oncologist. Neck was stiff on right side as an effect of surgery and ongoing Radiotherapy.

His chest was clear on auscultation and abdominal examination revealed a gastrostomy tube in place. His right lower limb (donor site of flap) showed a scar and healed skin grafted area. He was able to move around with a slight limp however his right foot movements were almost normal.

Medical board has discussed and deliberated on current status of Mr. Habib Ahmed and have unanimously agreed in the following opinion.

1. For a stage IV Squamous cell carcinoma of oral cavity, the outcome generally is very poor in terms of high chances of recurrence of disease despite curative surgery followed by post-operative Chemoradiations.

2. Mr. Habib is undergoing intense oncological intervention in the form of chemoradiation at this point which can result in serious complications like life threatening infections.

3. He has special nutritional needs to cope with his illness and will need regular clinical evaluations and interventions at a tertiary care hospital capable of dealing with such serious complications.

In view of the above it is recommended that his multimodality treatment of cancer cannot be carried out in detention. Even after the completion of treatment he would need regular follow-ups. Moreover the health condition of Mr. Habib if detained further in jail would be detrimental to his health/life."

4. The above report shows that the petitioner is suffering from mouth cancer, is undergoing intense oncological intervention in the form of Chemoradiation and his incarceration in jail is detrimental to his health/life. He cannot be provided treatment for his disease in jail and needs regular follow-ups. Learned Special Prosecutor NAB has although opposed grant of bail to the petitioner, but has not been able to dispute that the petitioner is seriously ill and his life could be in jeopardy in case he continuously remains in custody making his medical treatment impossible.

5. Accordingly, in the above circumstances, this petition is allowed and the petitioner is granted bail, subject to his furnishing a solvent surety in the sum of Rs. one million and PR bond in the like amount, to the satisfaction of Additional Registrar of this Court.

JUDGE

JUDGE