

BA 25/2018
BEFORE
HON'BLE MR. JUSTICE AJIT BORTHAKUR

By this petition under Section 482 Cr.P.C., the petitioner Smti. Moluda Begum has prayed to release her husband Md. Mazibur Rahman, who is convicted and sentenced under Sections 363A/34 IPC by a judgment and order, dated 07.04.2017, passed by the learned Chief Judicial Magistrate, Papumpare District, Yupia in G. R. Case No. 687/2016 (corresponding to Doimukh P.S. Case No.33/2016).

The petitioner's case, in a nutshell, is that her husband/ the accused, named above, is convicted and sentenced to suffer rigorous imprisonment for (five) years and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for 1 (one) year under Section 363 A IPC. The petitioner has contended that her husband, having suffered from fever with recurrent bleeding nose (Epistaxis), the Doctor of District Jail at Jully referred him to R. K. Mission Hospital, got him examined in the said hospital, where he is diagnosed as suffering from posterior pharyngeal wall tumor with uncontrolled bleeding and admitted for treatment on 21.06.2018. He was discharged on 28.06.2018 and referred for advanced Medical treatment at Guwahati. According to the petitioner, the health condition of the convicted accused is deteriorating day by day, even he is unable to eat properly and as such, he is on liquid diet.

Heard Ms. J. Doji, learned counsel for the petitioner and Ms. M. Tang, learned Addl. Public Prosecutor.

Perused the record.

Ms. J. Doji, learned counsel for the petitioner, submits that by a letter, dated 28.07.2018, the Superintendent of Prisons wrote to the learned Sessions Judge, West Sessions Division, Yupia vide Annexure-4 intimating about the deteriorating health condition of the convict and prayed to grant him interim bail, enabling him for advanced medical treatment outside Arunachal Pradesh. Ms. Doji further submits that the aforesaid report is based on reports of the Jail Doctor and the Doctors of R. K. Mission Hospital, Itanagar.

Ms. M. Tang, learned Addl. Public Prosecutor, Arunachal Pradesh contends that in the backdrop of the facts averred in the petition and as the learned Sessions Judge, Yupia has been availing vacation, no order for interim bail under the inherent jurisdiction of this Court can be passed in favour of the convicted accused, who is serving out the sentence, but the jail authority may be directed to provide medical treatment even outside the State.

It needs to be mentioned that the rights guaranteed in the Part-III of the Constitution of India are available to the prisoners, which are inherent in Article 21 of the Constitution of India. Prisoners have a right to receive the most appropriate medical treatment, which is the absolute responsibility of the State to make provision under the provisions of the Prisoners Act/ Jail Manual.

The accused is convicted and currently he is serving out the sentence in District Jail, Jully, Arunachal Pradesh. He is diagnosed after treatment with Posterior Pharyngeal Wall Tumor, with uncontrolled bleeding and referred for treatment at higher medical institute at Guwahati (Assam). It is reported that his condition is very serious and is unable to eat anything. On the other hand, the convict has preferred an appeal against his conviction, through the Legal Services Authority by engaging Legal Aid Counsel, which is pending for disposal.

For the reasons, set forth above, the Superintendent of District Jail, Jully, Itanagar, Arunachal Pradesh is directed to provide forthwith appropriate medical treatment, inside or outside Arunachal Pradesh as per medical advice inclusive of the Jail Doctor.

The Commissioner/ Secretary to the Govt. of Arunachal Pradesh, Department of Home, shall make necessary provision, if required, enabling the Superintendent, District Jail, Jully, Itanagar to carry out the above direction/ duty under law.

The Member Secretary, State Legal Services Authority, Arunachal Pradesh is directed

ted to monitor/co-ordinate among the authorities concerned.

All authorities concerned shall report compliance to the learned Sessions Judge, Papumpare District, Yupia on 16.07.2018.

With the above directions, the petition stands disposed of.

Registry to forward copy of this order along with the copy of the petition and its enclosures to all the above authorities concerned; learned District and Sessions Judge, Yupia; learned Chief Judicial Magistrate, Yupia and the learned Public Prosecutor, Arunachal Pradesh, by Special Messenger.