

ITEM NO.22                      Court 4 (Video Conferencing)                      SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Criminal)    No(s).    325/2020

PENDYALA HEMALATHA

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.107234/2020-GRANT OF INTERIM RELIEF and IA No.107238/2020-EXEMPTION FROM FILING AFFIDAVIT )

Date : 29-10-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE VINEET SARAN  
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Petitioner(s)    Ms. Indira Jaising, Sr. Adv.  
                                 Mr. Sunil Fernandes, AOR  
                                 Ms. Nupur Kumar, Adv.  
                                 Mr. Prastut Dalvi, Adv.  
                                 Mr. Susan Abraham, Adv.  
                                 Mr. Sudeep Pasbola, Adv.  
                                 Mr. R. Satyanarayan, Adv.  
                                 Mr. Paras Nath Singh, Adv.  
                                 Ms. Ujjaini Chatterji, Adv.

For Respondent(s)    Mr. Tushar Mehta, SG  
                                 Mr. S.V. Raju, ASG  
                                 Ms. Sairica Raju, Adv.  
                                 Ms. Kanu Agrawal, Adv.  
                                 Mr. Saurabh Mishra, Adv.  
                                 Ms. Swati Ghildiyal, Adv.  
                                 Mr. B.V. Balaram Das, AOR  
                                 Mr. A. Venkatesh, Adv.  
                                 Mr. Guntur Pramod Kumar, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

This writ petition under Article 32 of the Constitution of  
India prays for following reliefs:

"a) Issue an appropriate writ directing the respondents to set the petitioner's husband/Dr. P. Varavara Rao at liberty or admit him to bail on medical grounds, in the case arising out of C.R. No.4 of 2018 of Vishrambaug police station, Pune for offences alleged under Sections 121, 121-A, 124-A, 153-A, 505 (1)(b), 117, 120-B r/w 34 of the Indian Penal Code and Sections 13, 16, 17, 18, 18-B, 20, 38, 39, 40 of the Unlawful Activities (Prevention) Act, 1967, and all other cases, on such terms and conditions, this Hon'ble Court may deem fit and proper in the nature and circumstances of case; and/or

b) That pending the hearing and final disposal of this petition, the petitioner be directed to be released on temporary medical bail and be allowed to travel to Hyderabad to be with his family and loved ones on such terms and conditions as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case."

The petition also states that after filing of Charge-sheets on 15.11.2018 and on 21.02.2019, the Special and Additional Judge at Pune took cognizance of offences punishable under Sections 121, 121-A, 124-A, 153-A, 505(1)(b), 117, 120-B r/w 34 of IPC and Sections 13, 16, 17, 18, 18B, 20, 38, 39, 40 of the Unlawful Activities (Prevention) Act against the accused. The petition further states that a supplementary charge-sheet was filed on 21.02.2019 against the husband of the petitioner and cognizance in relation thereof was taken on the same day. The petition also states that an application for bail preferred before the High Court is presently pending.

According to the record, the application for bail (Criminal Appeal No.ASDB-LD-VC-143/2020) initially came up before the

Division Bench of the High Court on 28.07.2020. Thereafter, it came up before another Division Bench of the High Court on 17.08.2020 which took note of the Medical Report dated 30.07.2020 and observed as under:

"Copy of the Medical Report dated 30.07.2020 of the petitioner, which has been submitted in sealed cover to this Court by Nanavati Hospital may be furnished to the learned counsel for the petitioner as well as the Respondents by the Registry.

2. In the Medical Report it is inter alia stated:

"PROGNOSIS: Mr. P. Varavara Rao's persistent hyponatremia has improved after sodium correction but neurological status has not improved clinically as he is still disoriented with irrelevant talks.

He is maintaining saturation on room air, his respiratory system has not shown abnormal signs as of now but has paroxysmal bouts of cough especially during feeding.

As on date, considering the comorbid factors of age, persistent hyponatremia in COVID 19 case, the patient will require close monitoring."

3. If the medical condition of the petitioner so permits and subject to the Hospital protocol, the Hospital shall provide necessary facility to the family of the petitioner to interact with the petitioner on video call.

4. Stand over to 31<sup>st</sup>August, 2020."

The matter thereafter came up before another Division Bench on 17.09.2020 and it was directed not to be listed before the Bench of which one of the Learned Judges was a member.

Ms. Indira Jaising, learned Senior Advocate submits that since then, the matter has not been listed before the High Court. She invites our attention to letter dated 30.07.2020 filed by the Advocate for the petitioner (pages 63-64 of the paper book) and to the Medical Report dated 30.07.2020 of Nanavati Super Speciality Hospital which was noted in the order dated 17.08.2020.

Since the issues concerning medical condition of the husband of the petitioner and whether that condition calls for any order extending the facility of bail are engaging the attention of the High Court, in our view, the petitioner should approach the High Court. At the same time, we are conscious of the fact that the matter has not been listed after recusal of one of the Judges. We therefore request the learned Chief Justice of the High Court to consider listing of Criminal Writ Petition No.ASDB-LD-VC-195/2020 and Criminal Appeal No.ADSB-LD-VC-143 of 2020 before an Appropriate Bench so that the grievance of the petitioner can be looked into at the earliest.

It shall be open to the petitioner to urge the High Court that the medical condition of the husband of the petitioner demands attention of a particular character or type and if the facilities at Tajola Jail Hospital where he is presently undergoing treatment are not commensurate with the requirements, the petitioner be shifted to any other hospital.

Ms. Jaising submits that over and above the prayers made in the instant petition, the matter also raises questions

regarding human rights of a prisoner/accused. She relies upon the judgment of the Rajasthan High Court (Vaman Narayan Ghiya vs. State of Rajasthan, 2012 SCC Online Raj 3837: (2013) 3 RLW 2212: AIR 2013 Raj 35].

Since the basic issue is pending consideration before the High Court, we give liberty to the petitioner to withdraw this petition and file an appropriate petition before the High Court or to amend the existing petition ((Criminal Writ Petition No.ASDB-LD-VC-195/2020).

We request the High Court to consider the submissions raised in the existing petition and appeal as well as in any new petition, if filed by the petitioner at the earliest and preferably within two weeks.

It is made clear that we have simply recorded to the submissions made by the learned counsel and we shall not be taken to have expressed any view or reflected on merits of the submissions, which may be gone into on their own merits.

With the aforesaid observations, this writ petition is allowed to be withdrawn.

(INDU MARWAH)  
COURT MASTER (SH)

(BEENA JOLLY)  
COURT MASTER (NSH)