

Gujarat High Court

Vinubhai vs State on 2 August, 2011

Author: Anant S. Dave,

Gujarat High Court Case Information System

Print

CR.MA/15443/2010

3/ 3 ORDER

IN  
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL  
MISC.APPLICATION No. 15443 of 2010

With

CRIMINAL  
MISC.APPLICATION No. 15445 of 2010

=====

VINUBHAI  
HARIBHAI MALAVIA - Applicant(s)

Versus

STATE  
OF GUJARAT - Respondent(s)

=====

Appearance

:

MR JB PARDIWALA for

Applicant(s) : 1,

MS KRINA P CALLA ADDL. PUBLIC PROSECUTOR for

Respondent(s) : 1,

=====

CORAM

:

HONOURABLE

MR.JUSTICE ANANT S. DAVE

Date  
: 28/12/2010

ORAL  
ORDER

1. Heard learned advocates appearing for the parties.
2. Both these matters are taken up for final disposal at the request of learned counsels appearing for the parties.
3. The applicant of both the above applications have preferred this interim bail under Section 439 read with Section 437 of the Criminal Procedure Code, 1973, to release him temporarily for a period of 30 days regarding C.R.No.I-476 of 2009 and 257/2009 registered with Umra Police Station and Puna Police Station, Surat, respectively.

4. Mr.

J.B. Pardiwala, learned counsel appearing for the applicant submits that the applicant is advised to undergo surgery for a fairly large posterocentral and a left paracentral disc extrusion at L5-S1 level, as opined by Dr. Ashish Mehta, Consultant Spinal & Neurological Surgeon, Mumbai and it is submitted that the above opinion is rendered after detailed diagnose carried out through M.R.I. study of lumbio-sacral spine by the competent radiologist.

4.1. Mr.

J.B.Pardiwala, learned counsel further submits that though the trial court has verified the above aspect and has observed that the operation for the ailment can be carried out at New Civil Hospital, Surat but considering the risk involved while performing the operation and complications that may arise, for a better treatment and care, the applicant would like to be operated at Apple Hospital Surat, where the Neuro Surgeon from Bombay would perform the operation and the applicant can

be treated accordingly. It is further submitted that the applicant is a permanent resident of Surat and not likely to run away from the course of justice or law and would like to abide by the conditions that may be imposed by this Court.

5. I have heard learned APP appearing for the respondent-State and a statement dated 26.12.2010 of Dr. Aniruddha Solanki is recorded and the ailment of the applicant is verified and it is not in dispute that the surgery is necessary for the ailment of L5 -S1 level.

6. Considering the submissions of learned counsels appearing for the parties, opinion, certificates and medical reports of the Neuro Surgeon, I am of the opinion that the applicant is in need of surgery as advised by the experts in the field and for that the applicant can be granted interim/temporary bail and he can be hospitalized for a specialized treatment for surgery of a complicated nature at Apple Hospital, Surat. While the applicant is admitted in the Apple Hospital, Surat, two armed guard will be deputed and expenses for which shall have to be borne by the applicant. The applicant is ordered to be enlarged on a temporary bail for a period of three weeks from the date of receipt of the copy of the order of this Court and shall inform the investigating authority about his whereabouts and permanent address. The applicant shall also furnish the bond of Rs.5,000/- and surety of like amount to the satisfaction of the Court concerned.

7. With the above observations and directions, both the applications are allowed accordingly.

[ANANT S. DAVE, J.] //smita// Top