



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Writ Petition No. 2177/2024

Amar Singh Rathore S/o Bhagirath Singh Rathore, Aged About
41 Years, R/o 1134/51, Pratap Nagar, Lohakhana, Ajmer, Raj.
(Presently Lodged In Central Jail, Jodhpur)

----Petitioner

Versus

1. State Of Rajasthan, Through Secretary To The
Government, Department Of Home Affairs, Government
Of Rajasthan, Secretariat, Jaipur.
2. Director General Of Police, Jaipur.
3. The Commissioner Of Police, Commissionerate, Jodhpur.
4. Superintendent Central Jail, Jodhpur.

----Respondents

For Petitioner(s) : Ms. Priyanka Borana.

For Respondent(s) : Mr. Vikram Rajpurohit, PP.

HON'BLE MR. JUSTICE ARUN MONGA
Order (Oral)

24/10/2024

1. The petitioner is stated to be under incarceration for the past more than two years. It transpires that the petitioner is in judicial custody as an accused/under-trial in multiple FIRs lodged against him for the offences under Sections 406, 420, 409, 467, 468, 471 and 120-B of IPC. FIRs are all related to the Sanjivani Credit Cooperative Society.

2. Petitioner has filed the instant petition seeking his interim bail for 3 months on medical grounds of his wife. She requires immediate surgery for spinal listhesis, lateral bone plate issue requiring pedicle screw fixation as advised by her doctor. It is stated that the petitioner is the only family member available to



care for her, and she is unable to undergo the surgery without the support of an attendant or family member.

3. Briefly speaking, the relevant facts are that petitioner has been languishing in jail since 23.11.2022, in connection with FIR No.32/2019 of Special Organisation Group (SOG) Jaipur, in connection with alleged criminal delinquencies committed by him and also under Section 65 of I.T. Act, 2000.

3.1 Smt. Gor Kanwar, the wife of the petitioner, is suffering from a serious ailment called radiculopathy, a condition that occurs when one or more nerves in the spinal column are damaged or injured, causing them to malfunction. Dr. Sushil Acharya, Professor and Head of the Department of Neurosurgery at Jawaharlal Nehru Hospital, conducted an MRI on September 28, 2024. She has been advised to undergo immediate surgical intervention to address spinal listhesis and lateral bone plate issues, which will require pedicle screw fixation. Delaying this surgery may exacerbate her condition, posing a significant risk to her life.

3.3 The surgical procedure involves removing the problematic disc or bone spurs and stabilizing the spine through spinal fusion. The surgery for Smt. Gor Kanwar thus requires the physical presence of the petitioner for providing pre and post surgical assistance. There is no-one else to look-after her.

3.4 The present petition is preferred due to the paucity of time, as the petitioner is unable to seek bail in each of the FIRs. The time taken in such a bail process would render the entire effort fruitless. Hence, this petition.



4. Learned counsel for the petitioner submits that in some of the FIRs, the petitioner has already been enlarged on bail. The petitioner has not misutilized the concession so granted. Given the medical emergency, instant petition deserves to be allowed on humanitarian grounds, she would urge.

6. The matter was earlier heard by me on 16.10.2024, when following order was passed:-

“Wife of the petitioner, who is stated to be in a medically precarious condition, has been advised to undergo an imminent spinal cord surgery.

Learned Public Prosecutor seeks time to file a report.

List the matter on 24.10.2024.”

7. Pursuant thereto, today a report dated 24.10.2024 has been tendered in the course of hearing, wherein the medical condition of the wife is not disputed. Report is taken on record.

8. As per the medical record of the wife of the petitioner appended with the petition herein, it is borne out that his wife is getting medical treatment at Jawahar Lal Nehru Hospital, Ajmer, in the Neuro Surgery Department. As per the medical opinion rendered by Dr. Sushil Acharyan, Professor & Head of Neurosurgery Department, she has been advised surgery for ‘Pedicule Screw Fixation’.

9. Petitioner is a person with family ties and is not a flight risk. Nature of prosecution evidence is mostly all documentary in nature, which has been seized and there is no likelihood of tempering with the same.

10. Fundamental right enshrined under Article 21 of the Constitution of India, 1950, also encompasses right to live with



dignity as a human being which necessary entails to act as a good husband in terms of the marital vows taken during the saptapadi ceremony as per Hindu rituals.

11. Resultantly, in view of report and other reasons as above, the writ petition is allowed. The petitioner is directed to be released on temporary bail for a period of 60 days with effect from the date, the bail bonds and surety bonds are accepted by the Superintendent, Central Jail, Jodhpur.

12. It is made clear that the instant order shall be applicable qua all the FIRs, the recital of which has been given in the present petition.

13. Furthermore, the Jailor/ Superintendent shall not insist on the insolvency certificate as a part of the condition in the bail bond.

14. It is directed that petitioner shall surrender before 5.00 p.m. on the date of surrender. The 60 days period shall be calculated with effect from the day he is actually released for the interim period.

15. All pending application(s), if any, shall also stand disposed of.

(ARUN MONGA),J

180-Mohan/sumit/-

Whether Fit for Reporting: Yes / No