

**Court No. - 64**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 28104 of 2024

**Applicant :-** Qayamuddin

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Sarve Nazir,Zafar Abbas

**Counsel for Opposite Party :-** Brijesh Kumar Mishra,G.A.

**Hon'ble Samit Gopal,J.**

1. Heard Sri Sarve Nazir, learned counsel for the applicant, Sri Ajay Singh, learned A.G.A.-I for the State, Sri Ashok Kumar Yadav, Advocate, holding brief of Sri Brijesh Kumar Mishra, learned counsel for the first informant and perused the record.

2. Learned counsel for the applicant submits that the applicant is unwell in jail and on his application dated 16.4.2024 an order was passed by the Additional Sessions Judge, Court No. 1, Deoria on 22.4.2024 for providing him appropriate facility for treatment and direction was issued to the Jail Superintendent, District Jail, Deoria for it, but the Jail Superintendent, District Jail, Deoria through his letter dated 15.5.2024 has refused providing him treatment stating that due to Code of Conduct/Lok Sabha Election force is not available and once the force is available then steps will be taken for the surgery of the accused-applicant.

3. This is totally unacceptable. The accused is in custody under supervision of the State. The State cannot by any stretch decline providing him adequate medical facility on any ground. In the present case, in the opinion of the Court, the ground as taken by the Jail Superintendent, District Jail, Deoria is totally uncalled for.

4. The District Magistrate, Deoria and the Superintendent of Police, Deoria are directed to look into the matter personally and file their personal affidavits within two (02) weeks and also intimate the Court as to why adequate arrangements for surgery of the applicant were denied. They shall also intimate under what circumstances movement of the applicant for surgery was denied and who was responsible for it since if surgery was opined then the same cannot wait on the whims of officers but has to be performed on the opinion of the doctors. Needless to state, the care during illness and providing of medical facility to an under trial is also the responsibility of the State to which it cannot escape.

5. Let the matter be listed on 30.09.2024.

6. Office to communicate this order to the District Magistrate, Deoria and the Superintendent of Police, Deoria within two days from today for compliance.

(Samit Gopal,J.)

**Order Date :- 5.9.2024**

Naresh