

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.10232 OF 2021

BETWEEN

SRI K T NAVEEN KUMAR

... PETITIONER

(BY SRI SRIDHAR PRABHU, ADVOCATE
ALONG WITH SRI SUYOG HERELE E, ADVOCATE)

AND

THE STATE OF KARNATAKA
BY RAJARAJESHWARI NAGAR PS
REPRESENTED BY SPP
HIGH COURT BUILDING
BENGALURU - 560 001.

... RESPONDENT

(BY SRI ASHOK N NAIK, SPL. P.P.)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO SET ASIDE/QUASH THE IMPUGNED ORDER DATED 03.12.2021 PASSED BY THE HONBLE PRINCIPAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE FOR KARNATAKA CONTROL OF ORGANIZED CRIME ACT AT BENGALURU IN SPECIAL CASE NO.872/2018 (PRODUCED AS DOCUMENT NO.1) AND DIRECT

THE RESPONDENT TO PROVIDE NECESSARY TREATMENT TO THE PETITIONER FORTH WITH AT PRIVATE HOSPITAL.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 21.02.2022 THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioner/accused for under Section 482 of Cr.P.C for quashing the order dated 3.12.2022 passed by the Principal City Civil and Sessions Judge and Special Judge for Karnataka Control of Organized Crime Act at Bengaluru in Special Case No.872/2018 directing the respondent to provide necessary treatment in the private hospital.

2. Heard the arguments of learned counsel for the petitioner and learned High Court Government Pleader for the respondent-State.

3. The case of the petitioner is that the petitioner has been arrested by the police and he is in Judicial custody for the offences punishable as per the Sections 109, 114, 118, 302, r/w 120B of IPC and Sections 3(1)(i),

3(2), 3(3) and 3(4) of the Karnataka Control of Organized Crime Act (KCOCA). The petitioner is suffering from kidney disease and other various ailments and he was continuously treated by jail authorities and the petitioner requires higher treatment in the multi-speciality hospital as there is no facility available in the jail hospital, as well in the as the Government hospitals. Therefore, he has filed application before the Special Court which came to be rejected. Hence, he is before this Court.

4. The Special counsel appearing for the respondent seriously objected the petition contending that the offence is heinous one, if he is sent to the hospital there is chance of fleeing away from justice, is not ruled out and offence committed by accused is heinous one. However, the learned senior counsel for the respondent submits there are Government hospitals like Sanjay Gandhi and Victoria hospital for providing treatment and it is not necessary to

refer the petitioner to private hospital hence prayed for rejecting the same.

5. Having heard the arguments of the learned counsel for the petitioner and also on perusal of the medical report received from the jail hospital, the hospital records in respect of medical treatment given to the petitioner reveals that the petitioner was under treatment as per the Court order dated 24.10.2020 and he was referred to the Sanjay Gandhi hospital and while discharging the hospital authorities have stated that as on July, 2021 he is continuously suffering from low back pain, buffiness of face, swelling of the legs and feet with abdominal distention with omitting, loss of appetite and reddish patches all over the body and also there is renal dysfunction so he requires treatment at Nephrology Department and he is also diagnosed with Nephrologist with an acute Nephritis syndrome and was admitted to the hospital from 16.7.2021 till 28.7.2021 and further

evaluation was done which reveals he is having resistance hypertension, renal dysfunction, hypervolemic hyponatremia, low blood complement levels, transient thrombocytopenia and hypertension and various other diseases.

6. On perusal of the same, this court feels it is necessary to refer the petitioner to the multi-specialty hospital for proper treatment. The weight of the petitioner also gone upto 105 kilograms, even though he is not taking the food which reveals, the petitioner requires immediate treatment in multi-speciality hospital as the Government hospital will not be able to provide such treatments. The learned counsel also relied on the order of Supreme Court especially judgment reported in **(2017) 10 SCC 658** Re-inhuman conditions in 1382 prison case and looking to the facts and circumstances of the case, irrespective of offence committed by the accused, as his health condition is deteriorating day by

day, therefore he requires adequate and proper treatment in the multi-specialty private hospital.

7. That apart the learned Counsel for the petitioner has submitted the petitioner is ready to pay the treatment charges from his pocket and he will not burden the State Exchequer.

8. The learned counsel for the respondent also submits in case this court refers the petitioner to the private hospital then adequate security may be provided and the cost of security expenses shall be paid by the petitioner.

9. The submission of both the counsel is placed on record. The special counsel also produced list of hospitals vide memo dated 21.02.2022.

10. Considering the facts and circumstances the petition deserves to be allowed. The impugned order of the special court dated 3.12.2022 passed by the Principal

City Civil and Sessions Judge and Special Judge for Karnataka Control of Organized Crime Act at Bengaluru in Special Case No.872/2018, is hereby set aside

11. The Superintendent of jail is directed to provide treatment to the petitioner in the Columbia Asia hospital HSR Road, Bengaluru which is situated 7.7 kms from Parappana Agrahara Jail.

12. The petitioner is also directed to bear the entire medical expenditures which will be charged by the hospital authority.

13. The jail Superintendent is directed to provide sufficient security forces during the treatment and shifting the petitioner to the hospital and back.

14. The expenditures of the security forces shall be paid by the petitioner and as an advance he shall deposit Rs.1 lakh to the State Government towards the advance security expenditures.

The remaining balance shall be payable after the calculations.

It is needless to say that the Police Authorities shall not allow any persons to meet the petitioner in the hospital, except family members of his own family.

The superintendent of central prison is at liberty to impose any other condition regarding food etc., as he deems fit and proper.

If any violation of the condition the petitioner shall be taken back to the jail.

**Sd/-
JUDGE**

AKV