

ORDER BELOW EXH.208

[Passed on 21.01.2025]

1. This is an application filed by the Ld. Advocate for the accused No. 1 to return the two medical files, call the documents pertaining to the treatment of the accused during the period of MCR and call the documents of the treatment of the accused in J. J. Hospital, Mumbai and return all medical documents to the accused. Perused the application and say filed by Ld. APP. Heard, Ld. Advocate for the accused and Ld. APP.

2. It is the contention of the accused that he had filed the two medical files containing the C.D. in the court when he moved an application for bail. The said application of the bail came to be rejected. Hon'ble High Court had granted temporary bail to the accused on 08.10.2024 for the period of six weeks. As per the order of the Hon'ble Bombay High Court the accused was released on temporary bail. The accused further submitted that Dr. Vivek Chaudhari of Gajanan Heart Hospital to whom the accused had gone for treatment required the previous medical documents of the accused for the treatment of the accused. Therefore, accused required two medical files containing C.D. and medical documents of the accused during the period of the accused in the jail. Hence, Ld. Advocate for the accused prayed for allowing the application.

3. Ld. APP filed the say on 21.01.2025 and opposed

the application. Ld. APP vehemently submitted that instant application is filed with ill intention and ill wil. The accused repeatedly come with the same medical ground to gain the sympathy of the court in order to being released on bail. All 3 to 4 bail application filed by the accused came to be rejected and accused had taken the same medical defence in those said bail application. Ld. APP further submitted that it is settled law that once the original documents filed before the court is the part and parcel of the court itself it cannot be returned back. The accused can avail the document by way of certified copy. The instant application is filed only to mislead the court. The accused can take the treatment without the documents which he wants. This application is not tenable in the law. Hence, it is liable to be rejected. With this contention Ld. APP prayed for rejection of the application.

4. on perusal of record it is revealed that accused had filed the two medical files at the time of filing the regular bail application which came to be rejected. During the period the accused is on temporary bail the accused was examined by Dr. Vivek Chaudhari of Gajanan Heart Hospital on 19.10.2024. The prescription of Dr. Vivek Chaudhari filed on record show that Doctor needs the previous medical documents of the accused for his further treatment. It is not disputed that the accused is suffering from heart disease on the basis of which he was granted temporary bail from Hon'ble High Court. Now the question arise whether documents required by the accused can be returned back to the accused during the pendency of this case. The documents which the accused want does not have any

bearings on the merit of this case as those documents was not seized by investigation officer. Accused himself filed those documents for the purpose of bail. The certified copy of medical documents cannot be obtained because C.D. are the part of the record. I am of the considered view that the medical documents of the accused are not required for deciding this case on merit. It is the practice adopted in the court that the documents filed on the record are not returned until and unless the case is disposed off. However, there is no written rules which provides that documents of the record cannot be returned during the pendency of the case in criminal proceeding. Moreover, the documents sought by the accused will not have any bearings on the merit of this case.

5. During the pendency of this application the accused moved the bail application through the jailer. The medical documents of the treatment of the accused was called to decide the bail application. The accused can obtained the certified copy of this medical documents in respect of the treatment which he has undergone during his MCR period. Therefore, prayer for giving back the documents of treatment during the period of the MCR of the accused cannot be considered. The accused cannot be directed to submit the certified copy of the two medical files containing the C.D., which he wants, after getting back the two medical files because it contains the C.D. and other technical medical documents which cannot be copied. Since documents sought by the accused does not have any bearing on the merit of this case, I am inclined to returned back the two medical files containing C.D. to the accused for his treatment related to

the heart disease. So far as the medical documents of the accused during the period of his MCR are concerned, the accused can obtain the certified copy. Hence, this prayer for giving the medical documents for his treatment during the period of his MCR cannot be entertained. In view of the above reason I am inclined to allow this application partly and proceed to pass the following order.

ORDER

1. Application is partly allowed.
2. Two medical files containing the C.D. of the accused be returned to the accused.
3. Other prayer for giving documents of the treatment of the accused during the period of his MCR is rejected.

Sd/-

[N. D. Meshram]

Judicial Magistrate First Class,
1st Court, Shegaon, Dist. Buldana.

Date : 21.01.2025.

I, *P. K. Ingle*, Stenographer of C.J.J.D. & J.M.F.C. Court No.1, Shegaon affirm that the contents of this P.D.F. file order is correct word to word as per the Original Order.