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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 451/2020 & CRL.M.(BAIL) 897/2022

JAIDEEP SINGH SENDER@ATUL SINGH Appellant

Through: Ms. Sonia Mathur, Sr. Adv. with Mr.
Divik Mathur, Ms. Pratiksha Mishra, Ms.
Simarjeet Singh, Ms. Romika, Adv.
versus

CBI Respondent

Through: Mr. Nikhil Goel, SPP with Mr. Kartik
Kaushal, Adv.
Mr. Mehmood Pracha, Ms. Sanawar, Mr.
Aayushman Aggarwal, Mr. Jatin Bhatt, Mr.
Harshit Gahlot, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
06.12.2022

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1. On 18.08.2022, it was directed that the appellant shall appear before a Committee of Doctors from All India Institute of Medical Sciences (AIIMS) who shall after investigation opine that: (a) whether the appellant will be able to perform his day-to-day functions; (b) whether the post-operated recovery can be performed while he is in custody.
2. Pursuant to the said order, the AIIMS submitted a report dated 07.09.2022, wherein a Committee of 6 Specialists examined the appellant and opined as under:-

“a) Whether the appellant will be able to perform his day-to-day functions;

Mr. Jaideep Singh Senger @ Atul Singh is independent in



his lower extremities functions. He requires some assistance to perform Activities of Daily Living (ADL) with dominant hand which is likely to improve with regular exercise therapy and medications. He may follow up in Neurology OPD for the same.

b) Whether the post operative recovery can be performed while he is in custody

Patient underwent surgical treatment for oral mouth cancer (Lower lip cancer) by the Dept. of Surgical Oncology at IRCH in October 2020. No clinical evidence of malignant disease at present. Patient requires regular follow up with the operating team every 2-3 months or else as per recommendation of treating doctor.”

3. Thereafter, this Court again on 11.11.2022, asked opinion of the Jail Doctor to the fact that: (i) whether the appellant can be provided requisite physiotherapy facilities either in a jail hospital or in a hospital attached with the jail; (ii) whether in case of partial incapacity of the right hand of the appellant, can he be provided an assistance as mentioned in the report dated 13.09.2022 to manage his day-to-day activities while in jail.
4. Based on the said order, the office of Senior Medical Officer on 16.11.2022 opined as under:-

“ As per records brought by the patient, he is a case of moderately differentiated Squamous Cell Carcinoma lower lip operated on 23/10/2020. During examination, it was found that vitals



of the patient are stable but patient is having restricted mouth opening with subtle dystonia with resting tremors. Because of above mentioned symptoms patient will not be able to perform his routine daily activity independently. Because of restricted mouth activity, patient is on liquid diet which patient will not be able to take on its own because of dystonia and resting tremors. After reviewing the patient we are of the opinion that physiotherapy services available in Jail will not be sufficient for the above mentioned patient.”

5. In addition, on 22.11.2022, the office of the Superintendent of Prison, Central Jail-03 has also stated that “As per Delhi Prison Rule-2018, there is no provision of providing any assistance for 24 hours / 07 days of week for any ailment in any condition.”
6. In this view of the matter, there are 2 conflicting opinions before this Court: (i) By AIIMS which seems to suggest that the appellant would be in a position to perform his day-to-day functions but would require assistance and his dominant hand is likely to improve with regular exercise and therapies. In addition, the Committee of Doctors, AIIMS also seem to opine that he is only required every 2-3 months as an OPD patient; (ii) *Per contra* the report of the Senior Medical Officer seems to suggest that the appellant will not be not in a position to perform his daily routine activities without assistance, also the physiotherapy services available in jail are not sufficient. Mr. Goel, learned special counsel states that it is in direct conflict.
7. The medical status report of the Jail Superintendent is of a date later than that of AIIMS.



8. In this view of the matter, it is deemed proper that the AIIMS may again examine the appellant to opine as to whether the appellant would be able to perform his day-to-day functions.
9. In this view of the matter, the appellant shall appear before a Committee of Doctors who shall opine whether he will be able to perform his day-to-day functions and the level of assistance which will be required in performing the same.
10. The Director, AIIMS is requested to constitute another Board of Doctors to do the needful within a period of 12 days from today. The appellant shall appear before the Board on 20.12.2022. The Director, AIIMS shall inform the appellant at the following email Ids:
 - sengaraishwarya93@gmail.com
 - sengaraishwarya@yahoo.in
11. List before the Court on 22.12.2022.
12. Interim orders to continue till the next date of hearing.

JASMEET SINGH, J

DECEMBER 6, 2022 / (MS)

Click here to check corrigendum, if any