

HIGH COURT OF ORISSA

I.A. No. 447 of 2020

(Arising out of BLAPL NO. 3541 OF 2020)

Krishna Pad Mandal

@ Krushna Pada Mandal.....Petitioner

Vrs.

State of Odisha.....Opp.Party

05. 10.08.2020

In view of extraordinary situation arose out of COVID-19 lockdown, the matter is taken up through video conferencing. This is an application for interim bail. Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner is an accused in 2(a) CC Case No.24 of 2019(N) arising out of P.R.Case No.123 of 2019-20 pending in the court of learned Sessions Judge-cum-Special Judge, Berhampur,Ganjam registered for the offence punishable under Sections 20(b)(ii)(C) of the N.D.P.S. Act.

Learned counsel for the petitioner submits that thepetitioner's wife is suffering from some severe gynecological complexities along with cardio-vascular and hematological problems. She requires specialized treatment at M.K.C.G Medical College & Hospital, Berhampur,Ganjam. As she is living alone, the presence of the petitioner is necessary for attending her health care related need.It is stated that the petitioner is a permanent resident of Murshidabad district of West Bengal and his wife was earlier undergoing treatment there. However, she has shifted to Berhampur recently and she is residing in a rented house at

Nehru Nagar, 8th Lane, P.S. Gosani nuagaon of Berhampur, District-Ganjam. This Court also took steps to verify this fact from the concerned I.O. and found it to be true. No family members are there to look after her during her treatment or in case of any imminent surgical intervention at M.K.C.G. Hospital, Berhampur. In addition, she has shifted to Berhampur to visit the petitioner at regular interval at Berhampur jail. The presence of the petitioner to attend during her treatment and tracking her healthcare need is highly essential. The petitioner seeks interim bail in order to take care of his wife's treatment at M.K.C.G. Hospital, Berhampur.

Learned counsel for the petitioner has filed detailed medical reports concerning the health status and other clinical details of petitioner's wife along with a rent agreement dated 7th March, 2020 to prove that his wife is staying at Berhampur. This Court verified those documents. However, while verifying the medical documents as filed by the Petitioner for the perusal of this Court, but the prescription by the doctor is pathetically poor legibility and is far beyond the comprehension of any common man or even for this Court which is dealing with the matter. Such illegible handwriting in medical records has the propensity to have adverse medico-legal implications. However, learned counsel for the petitioner assisted the Court with much difficulty to decipher what was written therein.

Considering the submissions and factum of ill health of the petitioner's wife, it is directed that the petitioner be released on interim bail for a period of one month from the date of his release on interim bail on some stringent terms and conditions as deemed just and proper by the learned Sessions Judge-cum-Special Judge, Berhampur, Ganjam.

It is made clear that he shall surrender before the said Court on or before completion of one month with further condition that the petitioner shall not misutilize his liberty in any manner whatsoever.

Violation of the aforesaid condition may entail consideration for cancellation of the interim bail granted to the petitioner.

Accordingly, the I.A. is disposed of.

Before parting with the present application, one issue which this court is constrained to articulate is that considerable time and frustration associated with detective work in so far as medical reports/doctors' prescriptions are concerned. Such illegible scrawls composed by doctors creates unnecessary nuisance at the end of the patients, pharmacists, Police, prosecutors, judges who are bound to deal with such medical reports. Prescriptions of physicians, OPD slips, post-mortem report, injury report etc. written, perforce, are required to be legible and fully comprehensible. A medical prescription oughtn't to leave any room for ambiguity or interpretation.

This Court has highest regard for the professionalism of doctors and records its appreciation for them for their exemplary and untiring service during COVID-19 pandemic at different levels. The entire nation salutes their professionalism and supreme sacrifice during the current pandemic of unrelenting ferocity. This Court is also not suggesting that there is a responsibility gap at the end of the medical professionals like the Doctors, who are unquestionably valuable assets to our society. It is also equally trite that legible hand writing is a valuable asset to an educated man.

The illegible or significantly lower legibility than average handwriting impedes understanding the prescriptions and stand as a barrier to proper comprehension leading to, among others, innumerable medical complication. If we consider the issue from patient's perspective, illegible handwriting can delay treatment and lead to unnecessary tests and inappropriate doses which, in turn, can result in, at times, fatal consequences. On many occasions, the pharmacists find it difficult to decipher what is written in the prescription. Sometimes, even some physicians fail to read their own handwriting. The physician working in Government or private or other medical set-ups are suggested to write the name of drugs in CAPITAL LETTERS or in a legible manner. The CAPITAL LETTERS could perhaps ensure a proper visibility to the prescriptions and will remove the guess work and related inconveniences completely. Better handwriting

will help in easily deciphering the names of the drugs, doses, strength, frequency etc. with much ease. There could be some good justifications for such sloppy handwriting and the prominent one could be the relative heavy work pressure, long working hours, symptoms like writer's cramp etc. due to adverse patient-doctor ratio in the country, more especially, in the State like Odisha. In this new age of consumerism and the looming threat of allegations of medical negligence, it is imminent that the professionals protect themselves by exercising this basic care and caution.

This court feels, it is imperative that the entire physician community need to go an extra mile and make conscious efforts to write prescriptions in good handwriting preferably in CAPITAL LETTERS. The digital era could also throw open several options to make prescriptions and the diagnosis more patient friendly.

Looking at the magnitude of the issue, the Medical Council of India (MCI) also issued its notification dated 21st September, 2016, under Section 33 of the Medical Council Act, 1956, with a previous sanction of the Union Government, called "Indian Medical Council (Professional Conduct, Etiquette, and Ethics) (Amendment) Regulations, 2016". Regulation 1.5 of the said Regulation, in particular, mandates that:

“Every physician should prescribe drugs with generic names and preferably in capital letters and he/she shall ensure that there is a rational prescription and use of drugs”

The said notification prescribes that the doctors to write legible prescriptions preferably in CAPITAL LETTERS. The underlined objective of such notification is that writing names of medicine in capital letters ensures that doctors who have poor running handwriting can compensate for their deficiency by writing in capital letters. Some efforts in this direction has also come from the States like Maharashtra and Jharkhand, in the form of special circulars, consistent with the aforesaid notification issued by MCI.

In view of the growing concerns in this regard, especially in view of the fact that illegible handwriting could have life threatening consequences, this Court deems it fit to request the Chief Secretary, Government of Odisha to examine the feasibility of issuing appropriate circulars, in consultation with the Medical Council of India and the Central Government, to implement the abovementioned directions, as per the Notifications dated 21.09.2016 issued by the Medical Council of India, with respect to prescription of drugs by doctors. Further, appropriate steps may also be taken to create awareness among the medical professionals, involved in medico-legal cases, to record their observations and comments in a legible manner.

The Registry is directed to forward a copy of this order to the Chief Secretary, Government of Odisha for necessary action at his end.

As Lock-down period is continuing for COVID-19, learned counsel for the petitioner may utilize the soft copy of this order available in the High Court's official website or print out thereof at par with certified copies in the manner prescribed, vide Court's Notice No.4587 dated 25.03.2020.

LNB

S.K.Panigrahi, J.