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

+ W.P.(CRL)2321/2022

ALTAF AHMAD SHAH

..... Petitioner

Through: Mr. Trideep Pais, Sr. Advocate with
Mr. Rajat Kumar, Advocate (through
V.C.)

versus

NATIONAL INVESTIGATION AGENCY

..... Respondent

Through: Mr. Akshai Malik, SPP for NIA
(through V.C.)

CORAM:

HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

ORDER

03.10.2022

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[Through Video Conferencing]

1. The present petition is filed under Article 226 of the Constitution of India seeking urgent relief on medical grounds of the petitioner. The petitioner prayed as under:-

- a. Issue writ of mandamus to the Respondents directing them to take the Petitioner to Apollo Hospital, Sarita Vihar, or AIIMS for further treatment;**
- b. Issue writ of Mandamus to allow the family members of the Petitioner to attend to him in hospital accordance with Hospital rules regarding the subject matter;**
- c. Issue writ of Mandamus directing the jail authorities to supply all medical document to the family of the Petitioner;**
- d. Grant bail on medical-humanitarian ground to the Petitioner to seek medical treatment at Apollo Hospital, Sarita Vihar, New Delhi, and follow up**

treatment;

2. The learned Senior Counsel appearing on behalf of the petitioner stated the petitioner is implicated in FIR bearing No. RC-10/2017/NIA/DLI, P.S. NIA, New Delhi. After completion of investigation, the charge-sheet has already been filed. The trial is pending before the court of Sh. Shailender Malik, Special Judge/NIA, Patiala House Courts. Learned Senior Counsel further stated that the petitioner is suffering from serious ailments and at present he is admitted in Ram Manohar Lohia Hospital (RML) for treatment, recently when daughter of the petitioner visited the RML Hospital where she came to know that the petitioner is suffering from last stage of the Renal Cancer. The RML Hospital does not have the adequate facility to treat Renal Cancer. It is also stated that the Renal Cancer has already spread to different parts of the body and the petitioner is suffering from multiple organ failure and he requires urgent treatment at any other hospital. It is prayed on behalf of the petitioner that the petitioner be immediately ordered to be shifted either to Apollo Hospital or AIIMS Hospital, Delhi for appropriate necessary treatment and further daughter/son of the petitioner be allowed to meet the petitioner so that he can be very well looked after by the family members during the course of his treatment.

3. The Special Public Prosecutor appearing on behalf of the respondent/NIA stated that at present, there is no medical record available which can indicate that the petitioner is suffering from Renal Cancer and further the concerned doctors at RML Hospital have not recommended the transfer of the petitioner to any other hospital to say AIIMS Hospital, Delhi or Apollo Hospital.

4. The learned Senior Counsel appearing on behalf of the petitioner

during the course of arguments has referred the affidavit sworn by the daughter of the petitioner wherein she deposed that as per the information given by the doctors on duty at RML Hospital, the petitioner is suffering from Renal Cancer. He also referred judgment passed by Hon'ble Supreme Court titled as **Gautam Navlakha v. National Investigation Agency** decided on 12.05.2021.

5. The medical record submitted on behalf of the petitioner reflects that the petitioner is suffering from various ailments. The petitioner is also diagnosed with the Renal Cancer although there is no such medical document submitted on behalf of the petitioner. However, without going into the merits of the case as the right to have adequate and suitable treatment is the part of fundamental right as enshrined in Article 21 of the Constitution and after considering the totality of the circumstances and in the interest of justice it is ordered that the petitioner be shifted to AIIMS, Delhi for appropriate treatment under the judicial custody and direct supervision of the concerned Jail Superintendent and after following all necessary security measures. It is also permitted that either son or daughter of the petitioner may meet the petitioner once in a day for one hour in the Hospital subject to proper verification and strictly as per the rules and regulations of the concerned Hospital.

6. Copy of this order be sent through *email* to the concerned counsel for the petitioner as well as to Special Public Prosecutor for the respondent-NIA. Copy of this order be also sent through *email* to the Medical Superintendent/Chief Medical Officer of RML Hospital and Director, AIIMS, Delhi. Counsel for the petitioner shall also at liberty to send the copy of this order through *email* to the Medical Superintendent/Chief Medical

Officer of RML Hospital for information and necessary compliance.

7. It is also made clear that the necessary expenses likely to be incurred in the transportation of the petitioner from the RML Hospital to AIIMS Hospital, Delhi and further more treatment shall be borne by the petitioner.

8. Accordingly, the present petition is disposed of.

9. However, the petitioner shall be at liberty to file appropriate application in case any need is arises in future for any further direction regarding the medical treatment of the petitioner.

10. In the exigency of the circumstances, the Special Judge may take up the matter at his residence also during vacations.

SUDHIR KUMAR JAIN, J

OCTOBER 03, 2022*/j/hk*