




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Appeal (Db) No. 123/2018

Asharam @ Ashumal, S/o Thewardas @ Thaumal, R/o Sant Asharam Bapu Ashram Motera Sabarmati, Dist Ahmedabad, Gujarat. (Central Jail, Jodhpur)

----Appellant

Versus

State of Rajasthan, Through PP

----Respondent

For Appellant(s)	:	Mr. V.R. Bajwa Sr. Counsel assisted by Ms. Savita Nathawat Mr. R.S. Saluja Mr. Lalit Kishor Sen Mr. Yashpal Singh Rajpurohit
For Respondent(s)	:	Mr. Anil Joshi, GA cum AAG with Mr. Rajat Chhapparwal Mr. Pallav Sharma Mr. P.C. Solanki

**HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINIT KUMAR MATHUR**

Order

21/03/2024

I.A. No. 04/2024:

1. In furtherance of the direction given by this Court on 20.03.2024, Dr. Sarvepalli Radhakrishnan Rajasthan Ayurved University, Jodhpur (hereinafter referred to as 'the Ayurved Hospital') has sent a communication dated 20.03.2024 to learned Additional Advocate General, inter-alia, expressing their inability to treat the applicant.
2. For the purpose of ready reference, communication dated 20.03.2024 is being reproduced hereunder:-

"In reference to subject cited above, the facility is not available in University Sanjivani Ayurved Hospital



because 85 year old patient has multiple Cardiac Syndrome along some emergency surgical condition also. So keeping in mind age of patient heart related complication risk are more. We don't have facility like Cardiac Unit & ICU Unit, So it is not possible to treat the patient in present condition because the patient is not much suitable for Panchkarma treatment also."

3. Mr. Bajwa, learned Senior Counsel for the applicant submitted that in order to explore possibility of applicant's treatment at Arogayadham Center at Jodhpur, he met Dr. Arun Kumar Tyagi and during the discussion, Dr. Arun Kumar Tyagi, assured that all the facilities are available in his center. He added that Dr. Tyagi has given his consent to permit any expert from Madhavbaug Hospital, Raigad to visit/perform required activities at his center to ensure best treatment of the applicant.

4. In view of the aforesaid and having regard to the condition of the present applicant including his age, we feel that right to get appropriate treatment is his fundamental right and same needs to be protected.

5. We, therefore, dispose of the present application by directing that applicant's treatment shall be carried out at 'Arogayadham Center' at Jodhpur, in police custody. It will be required of the Commissioner of Police or his nominated officer to first visit the Arogayadham Center and assess the situation more particularly in relation to security aspects.

6. After the requisite security arrangements are made, the applicant shall be sent to Arogayadham Center at Jodhpur in police custody. Commissioner of Police shall make proper arrangement so as to ensure security of the applicant so also the law and order situation in and around the Arogayadham Center.



7. The Commissioner of Police shall permit any expert(s)/doctor(s) from the Madhavbaug Hospital to treat the applicant at Arogayadham Center.
8. The applicant shall be kept at Arogayadham Center for a period of ten days from the date he is admitted.
9. The cost of providing security shall be borne by the applicant. The police/jail authorities shall intimate the cost of security personnel to be deployed at Arogayadham Center to the applicant, which shall be deposited by him or his representative.
10. In the unlikely event of law and order situation getting out of control, it will be open for the Commissioner of Police to take the applicant back to the Central Jail, Jodhpur. In such situation, the Commissioner of Police will have to file his own affidavit to justify such decision.
11. List this case on 09.04.2024, as prayed.

(VINIT KUMAR MATHUR),J

(DINESH MEHTA),J

1-Mak/-