

Crl. Misc. (B) Case No. 515/2020

ORDER

23-09-2020

Later on, received report of Medical and Health Officer, Jail Hospital, Central Jail, Dibrugarh vide Office Memo No. CJD.2020/2315 dtd. 29-09-2020.

As per the medical report, the UTP Dr. Sidhi Prasad Deori (59 years) is a known case of Recurrent Carcinoma of left lung with metastatic form associated with Diabetes and Anemia under the treatment of medical Oncologist of Rajiv Gandhi Cancer Institute and Research Centre, Delhi. The UTP is having generalized weakness, decrease in appetite and on and of associated with difficulty in breathing. He is examined and provided conservative treatment at jail hospital.

It is also mentioned in the report that on 21-09-2020, he was referred to Assam Medical College & Hospital at Dibrugarh and was examined at the Department of Radio Therapy and the doctor advised for PET CT Scan at the earliest. Chemotherapy could not be done, as there is no facility for PET CT Scan at Dibrugarh and was referred to higher centre where such facility is available.

LCR was called for and same received.

LCR reveals that the UTP was taken to Assam Medical College & Hospital at Dibrugarh for treatment.

Seen the medical report dtd. 18-09-2020 of the Jail doctor.

Copy of the medical document enclosed with the bail petition reflects the accused to be a patient of Carcinoma of left lung and undergoing treatment at Rajiv Gandhi Cancer Institute and Research Centre, Delhi. From copy of the document so enclosed, the last such visit was 26-12-2019. The medical bill dtd. 26-12-2019 mentioned about Chemotherapy taken on that day. The medical document also reflects that the accused suffered from High BP, Thyroid, Diabetes and Heart disease, etc., as he was advised to continue with those medicines in the Discharge Summary dtd. 26-12-2019.

The FIR in this case has been filed by Child Welfare Committee, Dibrugarh on 31-08-2020. One boy named X, aged about 10/11 years, was recovered from

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the house of the accused petitioners Dr. Sidhi Prasad Deori and Mrs. Meetali Konwar. That boy was in their house as a child labourer since 2019. They used to assault the boy on different pretexts. On 27-08-2020, in the evening, Dr. Sidhi Prasad Deori poured boiled water over the sleeping boy, causing burn injury on the backside of the neck, below head, left ear portion and left shoulder.

Learned Advocate for the accused submitted that the incident of burning was due to the mistake of the boy for opening the Geyser to take bath, but the matter has been twisted against the accused persons and blown out of proportion. The boy even did not require any hospitalization.

The statement of the victim boy already recorded under Section 164 CrPC and he has implicated only the accused Dr. Sidhi Prasad Deori of pouring boiled water on his backside and prior to that, there was a quarrel between the accused and his wife on that day morning. After the accused poured hot water, the wife of the accused and daughter poured cold water over the injured part and the daughter of the accused applied ointment. Some neighbours informed the matter to the police.

Along with bail application, the family photographs of the happy moments in the house of the accused with family members enclosed and the submission of the learned defence counsel is that the boy was kept nicely in the house as family member and the allegation is false. He also submitted that the victim boy has been tutored to make false statement.

Learned advocate for the accused further submitted that even assuming the allegation to be true and correct, still then, the accused has a right for his treatment and if he is debarred from getting the treatment, the same may prove fatal.

The case has been registered under Sections 344/326/34 IPC read with Section 14 of the Child Labour Adolescent Prohibition Act and Section 75 of JJ Act. The substantial investigation has already been done by this time. The victim boy did not require hospitalization rather he was produced before the Court to record his statement under Section 164 CrPC. As see from the enclosed copy of order dtd. 15-09-2020 of CrI. Misc. (B) Case No. 489/2020, wherein bail of co-accused Smt. Mitalee Konwar (wife of accused Dr. Sidhi Prasad Deori) was allowed after perusal of CD, the photograph of the victim showed white patches due burn injury on the back neck extending downward towards right shoulder.

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The son and daughter of the accused were also arrested and they are enlarged on bail after perusal of the CD. The accused Dr. Sidhi Prasad Deori is in custody from 06-09-2020.

Considering the health condition and substantial investigation having been done, learned Addl. PP has not raised objection against the bail prayer of the accused.

Denying treatment facility to the accused who is suffering from lung cancer and Chemotherapy could not be given to him for non-availability of PET CT Scan at Dibrugarh, will be a violation of his human right. Even during arrest, guidelines issued by Hon'ble Supreme Court in ***DK Basu vs. State of West Bengal*** reported in (1997) 1 SCC 416.

Considering the nature of offence, the quantum of injury sustained, substantial investigation having already done, period of detention for 17 days from 06-09-2020 and above all, the present health status of the accused, further detention of the accused is not felt justified. Hence, accused Dr. Sidhi Prasad Deori is allowed to go on bail of Rs. 25,000/- with a suitable surety of like amount in connection with Dibrugarh PS Case No. 1443/2020, in default, hajot as before.

Return the LCR along with a copy of this order.

Misc. case stands disposed off.

Let a copy of this order be released as certified to be true copy under the signature of the Bench Assistant.

Sessions Judge,
Dibrugarh