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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 5301 OF 2017**

Ajaysingh Kuvarsingh Dahiya .. Petitioner

Versus

The State of Maharashtra & Anr. .. Respondents

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Appearances

Mr. Ujwal R. Agandsurve	<i>Advocate for the Petitioner</i>
Mr. Arfan Sait	<i>APP for the State</i>

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**CORAM : SMT. V.K. TAHILRAMANI, Acting C.J. &
M.S. SONAK, J.****DATE : JUNE 18, 2018.****ORAL JUDGMENT [PER SMT. V.K. TAHILRAMANI, A.C.J.] :**

1. Heard both sides. यमेव जयते
2. Through this petition, the petitioner has directly approached this Court seeking release on parole on the ground of his own illness. The case of the petitioner is that he is seriously unwell. In view of the contention of the petitioner, the medical report of the petitioner was called. Learned APP submitted the medical report of the petitioner

which shows that the petitioner is suffering from multiple sclerosis. The report along with other documents tendered by Shri. Narendrakumar Ahire, Jailor Group II, Mumbai Central Prison was taken on record and marked "X colly". The documents show that the petitioner has been admitted in JJ Hospital, Mumbai on 3.3.2018.

3. The medical report dated 11.11.2017 of JJ Hospital which is annexed at page 14 of the petition shows that the petitioner has been advised Avonex injection every week which is extremely important to the patient and if he misses the same, the symptoms will reoccur.

4. Learned counsel for the petitioner stated that the injection costs about Rs. 10,000/- and at some places, on account of discount, it is available for almost Rs. 8000/-, however, the family of the petitioner is asked to supply the said injection and other medicines by the Hospital Authorities. This situation cannot be countenanced. It is the

duty of the State to take care of the petitioner who is in their custody.

5. In ***Pt. Parmanand Katara vs. Union of India and ors. - (1989) 4 SCC 286***, the Hon'ble Supreme Court has held that Article 21 of the Constitution casts the obligation on the State to preserve life. The patient, whether he be an innocent person or be a criminal liable to punishment under the laws of the society, it is the obligation of those who are in charge of the health of the community to preserve life.

6. In ***Rama Murthy vs. State of Karnataka - (1997) 2 SCC 642***, the Hon'ble Supreme Court, after reference to the recommendations in the Mulla Committee report has held that the society has an obligation towards prisoner's health for two reasons. First, the prisoners do not enjoy the access to the medical expertise that free citizens have. Their incarceration places limitation of such access; no physician of choice, no second opinion, and few if any specialists. Secondly, because of the conditions of their incarceration, inmates are exposed to more health hazards than free

citizens. Prisoners therefore, suffer from a double handicap.

7. Even recently, in ***Re-Inhuman Conditions in 1382 Prisons - (2017) 10 SCC 658***, the Hon'ble Supreme Court has reiterated that providing medical facilities to inmates in prisons is a human right. The State Governments were directed to state the availability of the medical assistance to the prisoners and take remedial steps wherever necessary.

8. Taking into consideration the aforesaid legal position enunciated by the Hon'ble Supreme Court, we were unable to accept the approach of the respondents in the present case. The record indicates that the Doctors who are treating the petitioner have themselves advised that the petitioner must be administered certain medications. The State, in such circumstances, cannot avoid its responsibility or require the petitioner or his relatives to arrange for such medicines, particularly when there is material on record which indicates that neither the petitioner nor his relatives are really in a position to afford such medicines. In this view of the matter,

by order dated 13.3.2018 passed by this Court, it was directed that adequate arrangements be made to see that the petitioner is provided the injections as well as other medicines required by him as advised by the doctor at State cost. In order to see that this order is complied with, we had adjourned the matter from time to time.

9. Learned counsel for the petitioner stated that all necessary injections and medicines have been supplied to the petitioner at State cost. In between, the petitioner was also required to be hospitalized. Accordingly, he was admitted in J.J. Hospital, Mumbai and he was discharged on 16.3.2018.

10. Learned APP has produced the latest medical papers of the petitioner which show that his condition is now stable and he is being sent for treatment to JJ Hospital for further treatment and management as and when required. Learned counsel for the petitioner fairly admits that the petitioner is

being given all the medicines at State's cost and he is being taken to the hospital as and when required. In this view of the matter, learned counsel for the petitioner states that he does not wish to press this petition, hence, this petition is disposed of as not pressed. Rule is discharged. Needless to state that even if this petition is disposed of, the Prison Authorities and the State will continue to provide necessary medicines, injections and treatment to the petitioner free of cost and if found necessary, the petitioner will be admitted in the hospital.

[M.S. SONAK, J]

[ACTING CHIEF JUSTICE]