

ITEM NO.20

Court 3 (Video Conferencing)

SECTION II-B

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (Crl.) Nos.3017-3018/2020

(Arising out of impugned final judgment and order dated 02-06-2020 in CRAN No.1968/2020 08-04-2020 in CRM No. 2891/2020 passed by the High Court at Calcutta)

PARIMAL CHANDRA SAHA

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL

Respondent(s)

(With appln.(s) for interim relief and exemption from filing c/c of the impugned judgment)

Date : 07-09-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Mr. Pijush K. Roy, Adv.  
Ms. Kakali Roy, Adv.  
Mr. P. Veerappan, Adv.  
Mr. P. V. Saravana Raja, AOR

For Respondent(s) Mr. Suhaan Mukerji, Adv.  
Ms. Liz Mathew, Adv.  
Mr. Vishal Prasad, Adv.  
Mr. Abhishek Manchanda, Adv.  
M/s. Plr Chambers And Co.

**UPON hearing the counsel the Court made the following**  
**O R D E R**

- 1 On 17 July 2020, this Court issued notice on the Special Leave Petitions which arose from the orders dated 8 April 2020 and 2 June 2020 of a Division Bench

of the High Court at Calcutta, declining bail to the petitioner. The High Court noted the submission that the petitioner, who was in custody for about sixty-six days, was a septuagenarian and was suffering from a cardiac ailment. The Public Prosecutor, while opposing the grant of bail had submitted that the **victim** was in a precarious condition and was still hospitalized. Having regard to the gravity of the offence and the condition of the victim, the High Court declined to grant interim bail to the petitioner. However, it issued the following directions to ensure that proper medical treatment was extended to the petitioner, while he was in custody:

“Keeping in mind the prevailing condition and the age of the petitioner the correctional home authorities shall take necessary preventive/protective measures with regard to the health of the 2 petitioner and preventive measures necessary to protect him from any contagious infection. In the event there is any deterioration in the health condition of the petitioner while in the correctional home, such information be forthwith communicated to his family members and the petitioner would be at liberty to approach this court for necessary relief.”

- 2 Subsequently, on 2 June 2020, the High Court rejected the prayer for bail observing that *prima facie*, the petitioner appeared to be involved in an assault on the victim which resulting in death. While declining the bail, the High Court observed that:

“...in view of the health condition of the petitioner... it shall be open to the jail authorities to render all medical assistance including hospitalization, if so advised.”

- 3 This Court by its order dated 17 July 2020, issued notice, returnable on 31 July 2020. The petitioner died at SSKM Hospital, Calcutta, on 20 June 2020.
- 4 The Court by its order dated 31 July 2020 opined that it was necessary it to be fully apprised of the medical treatment which was provided to the

petitioner and of the steps that were taken by the jail authorities. The Superintendent of the Presidency Correctional Home was directed to file an affidavit within a period of two weeks clarifying the position and to place relevant documentation on the record.

- 5 In pursuance of the above directions, an affidavit has been filed by Mr Suprakash Roy, Superintendent of the Presidency Correctional Home, Government of West Bengal. Before we deal with the contents of the affidavit, it would be necessary to note that two submissions have been urged by Mr Pijush K Roy, learned counsel who had filed the Special Leave Petition on behalf of the petitioner. First, it has been submitted that the petitioner had a pre-existing history of ischemic heart disease but despite this the public prosecutor opposed the grant of bail. Mr Roy submitted that the course of proceedings before the High Court indicates that the system was indifferent to the plight of the petitioner and, that eventually, resulted in his death. Second, it has been submitted that though the death at SSKM Hospital took place at about 8 am on 20 July 2020, intimation was provided to the jail staff only at 12 noon and as a result, communication to the family of the petitioner could be made at about 3 pm. He submits that the delay of nearly seven hours in communicating the death to the family of the deceased would indicate the apathy of the SSKM Hospital and the jail authorities.
- 6 Ms Liz Mathew, learned counsel appearing on behalf of the State of West Bengal has emphasized relevant aspects of the case, including the medical background of the deceased and the treatment which was extended to him

since he was placed under judicial remand. Ms Mathew submitted that required medical treatment was extended to the petitioner, as is evidenced by the record, which has been produced before the Court. She urged that while the death took place at 8.10 am on 20 July 2020, as a result of the ongoing pandemic, the jail staff was not allowed within the precincts of the hospital. Hence, the intimation of the death of the petitioner was furnished at the police out-post at 12 noon, after which steps were taken to send a messenger to the family of the deceased and communication was thus made at 3 pm. Ms Mathew has submitted on the basis of the affidavit filed by the Superintendent that this delay is unintentional and has been occasioned as a result of the situation which has arisen before various hospitals across the country necessitating the adoption of stringent measures in the pandemic. Ms Liz Mathew urged that since the jail authorities were not permitted to enter the hospital where the petitioner was admitted for treatment, there was some delay in intimating the fact of death.

- 7 The affidavit which has been filed by the Superintendent of the Presidency Correctional Home, Calcutta indicates that prior to the commitment of the petitioner to judicial custody at the Presidency Correctional Home on 3 February 2020, he was taken to SSKM Hospital on 2 February 2020 at 11.30 am as an emergency patient when he was in police custody. Initially the petitioner was examined by the medical officer of the Presidency Correctional Home and he was admitted in Ward No H 5 at around 7 pm considering his health status and in accordance with the advice of the medical officer. The Presidency Correctional Home Hospital is situated within the Correctional Home. It has been stated that the hospital is a 100 bedded referral jail

hospital where prisoners from other correctional homes are also taken for treatment. The petitioner was admitted in Ward No H 5 since the date of his commitment to the correctional home and was never discharged from the hospital, as such. The affidavit states that from time to time the petitioner was taken for specialized treatment to the OPD section at SSKM Hospital as and when the need for follow up treatment arose. The SSKM Hospital, it has been stated, is an associate hospital of the Post Graduate Medical Education and Research Institute and is in close proximity to the correctional home. The following tabulation in the affidavit explains the course of action that was followed in providing medical treatment to the petitioner:

S.No.	DATE	MEDICAL TREATMENT
1	03.02.2020	<p>a. Petitioner was taken to judicial custody of Presidency Correctional Home as per order dated 03.02.2020 passed by the Ld. Court Additional Chief Judicial Magistrate, Alipore, South 24 Parganas at 6.25 PM.</p> <p>b. Due to ill health, Petitioner was admitted in Presidency Correctional Home Hospital ["PCH Hospital"] as an indoor patient.</p>
2	07.02.2020	<p>a. Petitioner was taken to SSKM Hospital at 11:35 AM where several pathological tests and medications were advised by the Medical Officer, and his Cardiological work-up including ECG was done.</p> <p>b. Petitioner was also taken to the Gastroenterology Dept., S.S.K.M. Hospital</p>

		<p>on the same day for complaints of dyspepsia, and medicines were prescribed for him there also. Petitioner was taken back to PCH Hospital on the same day at 1: 10 PM.</p> <p>c. Petitioner continued to be kept under the care and supervision of Presidency Correctional Home Hospital as a patient in indoor-bed, receiving medical diet and all medicines as per the advice of S.S.K.M. Hospital and visits to SSKM as necessary.</p>
3	16.03.2020	<p>a. Petitioner was again taken to the Emergency Dept. of S.S.K.M. Hospital at 11:05 AM for better treatment after complaints of severe chest pain.</p> <p>b. ECG, Trop T and other tests were done there and after Trop T was found negative, he was taken back to PCH Hospital at 2:35 PM with advice of medications and further follow-up.</p>
4	27.04.2020	A detailed medical report dated 27.04.2020 was filed before the Ld. Court of Additional Chief Judicial Magistrate, Alipore, South 24 Parganas regarding health status of the Petitioner.
5	06.05.2020	a. The Petitioner was taken to the Cardiology Department at SSKM Hospital at 11 20 AM for a follow-up, and also with complaints of left-sided chest pain, dyspnoea, vomiting etc.

		<p>b. It was noted there in his Patient Card, that all tests as per prior advice has been done, and his Left Ventricular Ejection Fraction was recorded as 50%.</p> <p>c. Rest was recommended and a prescription of oral medicines given with advice to continue the cardio-medicines and anti-diabetic medicines with some addition/alterations.</p> <p>d. The Petitioner was taken back to the PCH Hospital at 1 :45 PM and continued as an indoor-patient at the PCH Home Hospital following salt-restricted diabetic-medical diet and all the medications as per the advice of the Medical Officer at SSKM Hospital.</p>
6	10.06.2020	<p>The Petitioner was taken to SSKM Hospital at 11:17 AM for follow up at the Cardiology Department where his ECG was done. The Medical Officer at SSKM Hospital advised to keep the Petitioner under observation and to continue all medication as prescribed from SSKM Hospital. He was taken back to PCH Hospital at 12.45 PM.</p>
7	15.07.2020	<p>a. Petitioner was again taken to the Department of Cardiology at SSKM Hospital at 11: 17 AM and his Cardio logical check-up was done, and in his Echo, Ejection Fraction was recorded at 48% showing deterioration from the</p>

		<p>previous value</p> <p>b. Petitioner was prescribed to continue with mostly the same medications, with some inclusions, and was advised to visit for further follow-up.</p> <p>c. Petitioner was also taken for a follow up at the Diabetology Dept. at SSKM Hospital.</p> <p>d. Petitioner was taken back to PCH Hospital on the same day at 12:45 PM and thereafter the Petitioner had been continuing all those medicines as prescribed by specialist doctors at SSKM Hospital, under the indoor-care of PCH Hospital, along with daily supervision and proper medical and salt-restricted-diabetic diet.</p> <p>e. Petitioner was continuing various medications including Ecosprin, Glimepiride, Clopidogrel. A torvastalin etc as per SSKM Hospital advice under the care of Presidency Correctional Home Hospital as an indoor patient.</p>
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Details of the visits of the relatives of the petitioner between 5 February 2020 and 13 July 2020 have also been set out in the affidavit.

- 8 The affidavit indicates that on 20 July 2020, the petitioner complained of a sudden onset of acute chest discomfort and pain while he was lodged at

Presidency Correctional Home hospital. Besides taking steps for administering medical treatment, the petitioner was transferred by ambulance for further management and treatment to SSKM Hospital at 7.40 am. After the arrival of the ambulance at SSKM Hospital, the petitioner was handed over to the medical staff at the emergency department of SSKM Hospital. Between 8 am and 12 noon the staff of the correctional home was not allowed to enter the emergency department of SSKM Hospital as a precautionary measures in place during the Covid-19 pandemic. The correctional home staff was intimated at 12 pm by the police out-post at SSKM Hospital that the petitioner had died at about 8.10 am. Intimation was thereafter furnished to the Correctional Home at 1.17 pm. The Superintendent of the Correctional Home states that he intimated the OC of Telemax Police Station about the death of the petitioner by a memo. The memo was also sent to the Thakurpur Police Station by email at 1.17 pm and at 3.03 pm a messenger of the Police Station reached the residence of the deceased petitioner and conveyed the news of his death to the members of the family.

- 9 The material which has been placed on record indicates that the petitioner was suffering from a pre-existing ischemic heart condition. The High Court in its orders dated 8 April 2020 and 2 June 2020 was aware of the medical condition of the petitioner, since specific directions were issued to the jail authorities to extend necessary medical treatment to him. The affidavit which has been filed by the Superintendent indicates that right from the inception, since 2 February 2020, the petitioner was lodged at the hospital wing of the Presidency Correctional Home and was from time to time taken

for medical treatment to SSKM Hospital. On the date of death, when the petitioner complained of chest pain at 7.15 am, an ambulance was arranged to transport him to the SSKM Hospital before 7.45 am. He was placed under the care of the emergency department of SSKM Hospital, where he died shortly at 8.10 am. There is no material to indicate a lack of due care on the part of the Presidency Correctional Home in administering medical treatment to the petitioner. Though the death occurred at 8.10 am, it has been stated that as a result of the precautions in place during the ongoing pandemic, the staff of the jail had no access inside the emergency department of SSKM Hospital where the petitioner had been taken for specialised treatment. Intimation of death was furnished to the police out-post at 12 noon. Following this at 1.17 pm, the Superintendent issued an email to Thakurpur Police Station so that the family members of the petitioner could be intimated.

- 10 Since the accompanying staff of the jail had no access to the precincts of the emergency department of SSKM Hospital, the explanation in regard to the time which elapsed in informing the family should be accepted. The court has a deep sense of anguish about the fact that the petitioner died between the date on which notice was issued on 17 July 2020 and the returnable date of 31 July 2020. The exercise of seeking an explanation from the jail authorities was undertaken to enable this court to be apprised of the nature of the treatment that was extended to the petitioner and to ascertain whether due care was observed in extending medical treatment to him. Having perused the affidavit, we are of the view that there was no want of due care. The present proceedings shall stand closed in terms of the present order.

- 11 Before we conclude, the Court must record that during the course of his submissions, Mr Pijush K Roy, learned counsel has stated that the family of the deceased petitioner has not been in touch with him. Mr Roy has assisted the Court objectively as a matter of duty to the Court. We also appreciate the fair assistance which has been rendered by Ms Liz Mathew, learned counsel for the respondent State.
- 12 The Special Leave Petitions are accordingly disposed of.
- 13 Pending applications, if any, stand disposed of.

**(CHETAN KUMAR)**  
**AR-cum-PS**

**(SAROJ KUMARI GAUR)**  
**BRANCH OFFICER**