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

+ **W.P.(CRL) 363/2024**

MOHAMMAD YASIN MALIK

..... Petitioner

Through: Mr. M. Rais Farooqui, Mr. M. Asad
Beig and Mr. Anil Kumar, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Rajat Nair, Advocate for
Mr. Tushar Mehta, Solicitor General
of India for UOI.

Mr. Chetan Sharma, ASG and
Mr. Apporv Kurup, CGSC with
Mr. Amit Gupta, Ms. Nidhi Mittal,
Mr. Akhil Hasija, Mr. Vikramaditya
Singh, Ms. Muskan Gupta, Ms. Gauri
Goburdhun, Mr. Aparna Arun,
Mr. Gujas Narula and Ms. Aanchal,
Advocates and Mr. Sahaj Garg, G.P.
for UOI.

Mr. Amol Sinha, ASC for State with
Mr. Kshitiz Garg, Mr. Ashvini Kumar
and Ms. Chavi Lazarus, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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02.02.2024

CRL.M.A. 3362/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

W.P.(CRL) 363/2024

1. Writ Petition under Article 226 of the Constitution of India has been



preferred on behalf of the petitioner with the following prayers:

“(i) issue a writ in the nature of mandamus or any other writ, order or direction of like nature thereby directing the respondents to produce the record of treatment of the petitioner for appropriate directions to the respondents to refer the petitioner for his proper and necessary treatment as suffering from serious Cardiac and Kidney ailments etc. besides other severe decease to the petitioner in AIIMS or any other Hospital of Super Specialty, New Delhi; and/or

(ii) issue a writ in the nature of mandamus or any other appropriate writ, order, command or direction of like nature thereby directing the respondents to refer the petitioner for the required treatment suffering from serious Cardiac and Kidney ailments etc. besides other severe decease to the petitioner in private Hospital of Super Specialty within the Capital Territory of Delhi/New Delhi or the region of Srinagar, Kashmir at the expense of the petitioner.”

2. Mr. Rajat Nair, Advocate for Mr. Tushar Mehta, Solicitor General of India appears on advance notice on behalf of respondent Nos.1, 3 & 4 and requests for an adjournment, as learned Solicitor General is stated to be unavailable.

3. Learned counsel for the petitioner submits that the petitioner is a patient of cardiac and kidney ailments and was earlier examined by Dr.Kaul and Dr.Roy. As such, he submits that the petitioner be examined by the same doctors. He further prays for issuing directions to the respondents to refer the petitioner for proper and necessary treatment in AIIMS or any other hospital of superspeciality, as noticed in the prayer.

4. Mr. Rajat Nair submits that petitioner has suppressed material facts and is a high risk security prisoner. In terms of order No.F.2-68/Medical Board/2023-Estt.(H.) dated 06.12.2023, in response to letter No.SCJ-7/AS UT/2023/5168 dated 20.11.2023 by Deputy Superintendent, Central Jail No.7



regarding 'follow up and review and treatment of inmate Mr. Yaseen Malik', a Medical Board was constituted by the Medical Superintendent, AIIMS consisting of Dr. Nitish Naik, Professor, Deptt. of Cardiology (Chairperson), Dr. Poonam Sagar, Asstt. Professor, Deptt. of E.N.T. (Member) and Dr. Charan Raj, Asstt. Professor, Deptt. of Hospital Administration (Member Secy.). However, a letter dated 30.11.2023 was received from the Superintendent of Prison, Central Jail No.7, Tihar, New Delhi requesting an alternative consultation method instead of physical appearance of the petitioner and in view of request of Superintendent of Prison, the meeting of Medical Board was re-scheduled for 06.12.2023 at 01:00 PM through video conferencing on Google Meet platform in SET Facility, AIIMS. Accordingly, a meeting of all Board Members was convened. However, the Jail Authorities informed that the petitioner denied to join the Board Meeting through virtual mode.

It is further submitted that petitioner is not required to be admitted in the hospital, but only requires examination as an OPD patient in the first instance.

5. In response to submissions made by Mr. Rajat Nair, learned counsel for the petitioner seeks an adjournment to take instructions, if the petitioner would opt for examination by the Doctors/Board referred in letter dated 06.12.2023 or by the Doctors of his own preference.

6. As requested by learned counsel for the petitioner, medical report/record of the petitioner be called from concerned Superintendent Jail, Tihar before the next date of hearing. Superintendent Jail is also directed to ensure that necessary medical treatment is duly provided to the petitioner at Jail Hospital, in accordance with Rules.



List on 14.02.2024.

A copy of this order be forwarded to Superintendent Jail, Tihar for information and compliance and a copy be also provided to learned counsel for the petitioner under the signatures of Court Master, as prayed.

ANOOP KUMAR MENDIRATTA, J.

FEBRUARY 02, 2024/R