

Time Line in the Saibaba Case

Date	Event
2004	GN Saibaba, an academic and teacher at Delhi University, suffered a heart stroke and was put on treatment and regular medication. He was advised against stressful activity since that could cause a second stroke which might prove fatal. Petitioner has since been under regular treatment at AIIMS, St Stephen's Hospital and Arya Vaidya Sala in Delhi. Saibaba also suffers from 90% disability due to post polio paralysis, and is wheelchair bound.
22.08.13	Police claims that they had kept two persons – Mahesh Kariman Tirki and Mandu Pora Narote – under surveillance, since they had information that they were members of the banned organisation: Communist Party of India (Maoist)
22.08.13	Police claims that while they had Mahesh Kariman Tirki and Mandu Pora Narote under surveillance, they saw them standing in a desolate area near a bus stand where a person approached them and all three

appeared to be murmuring. The police claims they stopped all three and asked what they were doing at that desolate place, and when their answers were evasive, they were taken to the police station, interrogated and arrested. FIR No. 3017/13, was registered at Police Station Aheri, District Gadchiroli u/s 120B, IPC, and u/s 13, 20, 39, Unlawful Activities Prevention Act. There was no mention of professor Saibaba in the FIR.

02.09.2013 Two others – Prashant Rahi and Prasad @ Vijay Tirki – are arrested in the course of investigations into FIR 3017/13.

September 2013- GN Saibaba was interrogated by the police in person, via phone calls and e-mails

January 2014 ostensibly while investigating FIR 3017/13. He provided all information sought by the I.O and fully cooperated with the investigation. The I.O. and his team visited Saibaba at his residence on 09.01.2014 and he gave as much time as sought by the I.O. and other police officers who came from Maharashtra.

- 16.02.14 The police filed final report/charge sheet no. 02/2014, under Sections 13, 18, 20, 38 and 39 of the Unlawful Activities Prevention Act (Amendment 2008), in the Court of the JMFC, Aheri. Five accused were shown as in judicial custody, two accused were shown as absconding, and the Petitioner was shown as "yet to be arrested" in the charge sheet.
- 09.05.14 Professor GN Saibaba was arrested in the present case from his university residence in Delhi, and produced before the court of the JMFC, Aheri. Since he was not required for the purpose of investigation, the Petitioner was remanded to judicial custody at Nagpur Central Prison.
- 13.06.14 The Learned Principal District and Session Judge, Gadchiroli, dismissed the Bail Application filed by Saibaba under Section 439 CrPC, on the ground that there was a *prima facie* case against the Petitioner, and since proper medical attention was being provided to him inside jail, there was no reason to release him on bail.

01.07.14 Co-accused Vijay Tirki, who had been arrested 11 days after registration of the FIR, was granted bail by the Nagpur Bench of the High Court, since the High Court found that the allegations against him were vague and there was no mention of any specific incident to prima facie indicate that he was either involved in unlawful activities or was a member of CPI (Maoist).

25.08.14 The Nagpur bench of the Bombay High Court dismissed Saibaba's Bail Application on the ground that the Petitioner was a member of an organisation which was a front for the CPI Maoist and material recovered from his residence showed that he had been complaining that he had not been given *"an active role commensurate with his capability and also being discriminated in the organization by denying him access to an interaction with the underground activists of the banned organization."* The High Court also found that *"There are also documents prima facie showing professing and supporting violent*

methods of the banned organization by the applicant." The High Court relied upon the report of the doctor annexed to the reply of the prosecution to conclude that proper treatment was being given to the Petitioner in respect of his precarious health and there was no reason to enlarge him on bail.

25.08.14 Co-accused Prashant Rahi, who had also been arrested along with Vijay Tirki 11 days after registration of the FIR, and from whom the police claimed to have recovered incriminating documents showing that he had been assigned a specific role in carrying out the aims and objectives of the CPI Maoist was granted bail by the Nagpur Bench of the High Court. The High Court found serious doubt in the case against him since signatures of the panch witnesses had not been taken on documents allegedly seized from him and the seizure panchnama did not describe the documents seized.

28.10.14 Co-accused persons Prandu Narote and Mahesh Tirki were granted bail by the

Learned Sessions Judge. These were the two accused who, as per the case for the prosecution, had first been placed under surveillance by the police for being members of the CPI Maoist and whose apprehension had led to the filing of the FIR. The case for the prosecution was that these two accused persons were members of the CPI Maoist and were meeting with the third accused (Hem Mishra, who was arrested along with them) in order to take him to the DVC of the CPI Maoist. The trial court found that merely because these two accused were taking the third accused to the DVC of the CPI Maoist did not, even prima facie, establish that they were naxalites or were helping naxalites. True copy of the order is annexed herewith and marked as **Annexure P/6**.

04.10.14 The Petitioner made an application to the learned Sessions Judge that the jail authorities were not equipped to deal with his complex, abnormal condition and ailments in an integrated manner. He

stated that he had been under regular treatment from AIIMS, St Stephen's Hospital and Arya Vaidya Sala at Delhi before his arrest and applied to the Sessions Court to send him to AIIMS for investigation and treatment since that institution was best equipped to deal with his health issues.

10.11.14 GN Saibaba applied to the learned Sessions Judge – pending decision on his application of 04/10/14 to be sent to AIIMS – that if any tests et cetera were to be done locally he should be transported in a low floor vehicle since he was wheelchair-bound. He also prayed that he be sent along with two under trial prisoners who had been taking care of him while he was in judicial custody since, he pointed out, the jail personnel were untrained and ill-equipped to handle him and his wheelchair and any mishandling could cause him fractures and serious injury since he suffered from multiple disorders including brittle bones.

17.11.14 The Sessions Judge rejected the Petitioner's

application to be sent to AIIMS for treatment on the grounds that the High Court had, in its order of 25 August 2014 dismissing Saibaba's bail application, come to the conclusion that he was being given all proper medical care and treatment: the Sessions Judge refused to independently consider whether Saibaba was in fact been given appropriate medical care and attention.

18.11.14 The Sessions Judge dismissed the application preferred by Saibaba praying for providing a low floor vehicle to take him to hospital and for permission for the three jail inmates who helped him in his day to day activities inside the jail, to come along with him for his assistance to Nagpur local hospital.

04.03.15 Bail application filed by Saibaba before the Trial Court, seeking release on bail on medical grounds, since the jail authorities were not equipped to provide him with requisite medical care: ambulance services provided for transporting him to the

hospital after order by the Sessions Judge had stopped and as a result he was unable to attend hospital for his further treatment and care; he was to be examined and CT scan conducted on January 29 but although he had been kept on an empty stomach for conducting the scan he could not be taken to the hospital since the police guard refused to escort him; MRI revealed that his spine and the column of his vertebrae had taken a turn towards the right resulting in rib-crowding pushing his right lung down and motor dislocation that made his left hand non-functional and caused severe pain in his back and lower limbs; doctors at GMC Hospital had told him that his cardiac issues had taken a turn for the worse and that his medication would have to be changed once investigations were complete but even this process had stalled since he could not be transported to the hospital.

GN Saibaba's bail application was dismissed based on the fact that the High

Court had already considered the medical facilities being provided to the Petitioner when it had rejected his bail application on August 25, 2014. Although the Sessions Judge took note of the fact that the respondent admitted that, for a while, there had been no vehicle to take Saibaba to the hospital, the learned judge was satisfied that the SP Gadchiroli had stated that he had now provided the appropriate vehicle. The Sessions Judge also relied on the submission on behalf of the Chief Medical Officer of the jail that the Petitioner had been provided with all the best of facilities. The Sessions Judge also took note of the fact that charge had already been framed and special public prosecutor had been appointed for the trial: the judge therefore found that trial could be concluded expeditiously and directed the special public prosecutor to conclude recording of evidence at the earliest.

18.04.15

Soon after the order dismissing his bail application, the jail authorities withdrew

even those facilities which had been provided to Saibaba earlier. He was therefore, left with no other option and went on a hunger strike. After the Petitioner fell unconscious on 15.04.15 and 16.04.15, the Trial Court passed an order directing the jail superintendent and C.M.O to provide all legal facilities to him, directing Saibaba to stop his hunger strike, and further directing him to file an appropriate application for bail on medical ground.

27.04.15 Thereafter, Saibaba filed another bail application before the Sessions Judge pointing out that jail authorities had withdrawn even those facilities which had been provided to him on the directions of the Sessions Judge immediately after his bail application had been rejected, and pointing out that more than 11 months after his incarceration the chief medical officer was still exploring the possibility of getting a specialised bed for him: meanwhile, he was forced to use a rusty bent cot which caused him excruciating

pain and further degeneration of his spine. Saibaba also pointed out that a suitable vehicle to transport him to hospital had still not been provided. He also submitted that although the Sessions Judge had, while dismissing his earlier bail application, directed the special public prosecutor to conduct evidence expeditiously, more than two months later the public prosecutor had still not even provided a schedule for evidence.

20.05.15 Professor GN Saibaba, once again requested the learned Sessions Judge for adequate arrangements to be made for him given his medical condition. The Sessions Judge taking note of the fact that the Petitioner suffered from many ailments and had been advised angiography and the removal of kidney and bile stone and that he also had spine and nervous problems, directed the superintendent of the jail to provide Saibaba, the Petitioner with suitable bedding and with western style commode toilet and to provide him with the

assistance of three other under trials.

The state replied to the Petitioner's application for bail repeating the objections taken to his earlier applications. However, the report of the Chief medical of the jail, annexed to the reply, confirmed that the Petitioner (Saibaba) was a known case of systemic hypertension with left ventricular hypertrophy, the orthopedic surgeon had diagnosed him to be suffering from left shoulder weakness and backache and had advised regular physiotherapy, and that he had been suffering from kyphoscoliosis causing rib crowding. More importantly, the report stated that the Saibaba's ECG showed ischemic changes and he had been advised coronary angiography but he had refused to undergo the same since facilities at the GMCH were inaccessible to him being disabled unfriendly. Report also indicated that the neurologist had diagnosed the Petitioner to be suffering from cervical radiculopathy with a thickening of the left side brachial plexus at

its roots and trunks, and the general surgeon had diagnosed the Petitioner as suffering from bilateral renal calculi (stones in both kidneys) with gallbladder stone. Report further stated that the Petitioner is 90% physically disabled with heart disease, bone deformity, neurological problems, kidney stone and gallbladder stone and that the Petitioner required constant expert evaluation and treatment.

03.06.15 Despite this, the Sessions Judge rejected Saibaba's application for bail finding that inadequacy of medical treatment as a ground for bail had already been decided by it and necessary directions issued. The Sessions Judge also found that 'parity' – four other co-accused had been released on bail – did not avail to the Petitioner since it had been available to him when his earlier bail application had been refused by the High Court.

10.06.15 Ms. Purnima Upadhyay, a social worker working in the tribal area of Melghat in Amravati District, relying on a report in

'The Hindu' newspaper regarding the physical condition of the Petitioner, and concerned about the crippling ailments being developed by the Petitioner while in custody, addressed email to the Chief Justice of the High Court at Bombay. The Chief Justice took suo motu notice of the email converted into Criminal PIL ST. No. 4/2015 titled - 'Ms. Purnima Upadhyay v. State of Maharashtra'.

17.06.15 The Petitioner needed treatment in a hospital which had a specialised department for spine, neurology and neurosurgery and the government medical civil hospital Nagpur did not have the requisite facilities. The High Court therefore directed that the Petitioner be taken to a private hospital for diagnosis and charting further course of treatment.

22.06.15 The neurophysician had prescribed NCB and EMG tests for the Petitioner. These tests were however not available at the government super specialty hospitals and the neurophysician had therefore referred

the Petitioner to JJ hospital at Mumbai. Taking into consideration the precarious health of Petitioner the Bombay High Court allowed the Petitioner to have the tests conducted in private hospitals in Nagpur itself. The High Court also directed that the Petitioner's wife and brother would remain present during his hospitalisation and guards would not interfere with the Petitioner's meetings with them. The High Court noticed that nothing had been brought to its notice to indicate that the Petitioner, his wife or his brother had shown any propensity to physical violence.

26.06.15 The Division Bench of the High Court of Judicature at Bombay, considered the affidavit placed on record by Ms. Purnima Upadhyay - whose email had been converted into the Public Interest Litigation - stating that she had met the Petitioner on 24 June 2015. The affidavit stated that the Petitioner was wheeled in by two assistants and that even his bare movements were crippled without his assistants, and also

stated that the Petitioner had informed her that his left shoulder had been dislocated when he was picked up by attendants in jail who were assisting him in attending to his toilet, and as a result he could not move his left hand freely; his right hand had been affected by spinal problems; he had frequent muscle cramp; he had also been fainting; and his kidney and gallbladder issues led to urinary problems for which he was in high medication.

The High Court came to the conclusion that there had been a change in circumstances from when it had first dismissed the Petitioner's bail application on 25 August 2014 - i.e., the deterioration in the Petitioner's health - and held that it would be necessary to re-examine the Petitioner's entitlement to bail in the light of the changed circumstances.

30.06.15

The Division Bench of the High Court of Judicature at Bombay considered the report of the Central India Institute of Medical Sciences at Nagpur. The report

diagnosed the petitioner as suffering from Anterior Horn Cells Disease and had prescribed reevaluation by chest physician and cardiologist for the petitioner's chest and cardiac ailments, and had also prescribed physiotherapy, pain management, supportive care and regular clinical follow-up with neurophysician. The High Court therefore directed that the petitioner be released on bail for a period of three months so that he could go to Delhi for treatment at hospitals which were on the panel of Delhi University – the Petitioner's employers – such as AIIMS, and under the care and support of his wife and daughter. (S.B. Shukre, J, who had dismissed the Petitioner's first application for bail to the High Court on 25 August 2014, was part of the bench that passed this order.)

03.09.15

The main accused in the case, Hem Mishra, was granted bail by the High Court of Judicature at Bombay, Nagpur Bench, on the ground that there is no allegation

against him that he had handled any arms, weapons or explosive substance, or had given incitement to commit any violence or any unlawful act.

04.09.15 The Division Bench of the High Court of Judicature at Bombay, after considering the medical report dated 31.08.2015 given by the Indian Spinal Injuries Centre, New Delhi, extended the period of temporary bail granted to Petitioner for medical treatment up to 31.12.2015. The Court also granted liberty to the Petitioner to move regular bail before the Nagpur Bench of the High Court at Bombay in the above changed circumstances.

20.11.2015 The Petitioner filed a bail application before the High Court of Judicature at Bombay, Nagpur Bench, Nagpur, and during the course of arguments, the Court questioned the action of the Chief Justice in hearing the Suo Motu PIL pertaining to the Petitioner, since matters relating to the case had previously been heard at the Nagpur Bench. It also raised two issues for

consideration regarding the power of the Chief Justice to transfer cases from the Nagpur Bench to the Principal Bench at Mumbai, and sought responses from the parties, and adjourned the matter for 11.12.2015.

02.12.2015 The Petitioner underwent a scheduled follow up with his doctor at the Indian Spinal Injuries Centre, and he was advised to continue his treatment and physiotherapy for a period of 3 months.

23.12.2015 The High Court of Judicature at Bombay, Nagpur Bench, Nagpur, dismissed the Petitioner's bail application. The Petitioner's submissions for bail on the merits of his case were rejected on the grounds that the High Court saw no reason to differ from the view taken in its order of August 25, 2014. Submissions on parity were rejected on the grounds that the other five accused had been admitted to bail because the court had found that *prima facie* there was no material against them, whereas the court had already found that there was no reason

to diverge from its earlier opinion that, prima facie, there was material against the Petitioner. The Petitioner's submissions for bail on health grounds were rejected because the court found that the Petitioner was provided with necessary treatment and "was rather a special guest in the jail and was provided medical treatment and the experts from the Government Medical College and Hospital and Super Specialty Hospital Nagpur had examined him." The Court further found that the present health condition of the Petitioner was 'perfectly normal' and he was in the same position as when he was in jail and that had been no change from the date of his arrest. The High Court also commented adversely about the fact that the Petitioner could have approached the Nagpur bench for bail on health grounds and observed that there had been a "game plan" to secure bail for the Petitioner. The Court also issued contempt notice to Arundhati Roy for an article appearing in the news magazine Outlook

regarding the Petitioner's incarceration. Although the Petitioner had been enlarged on temporary bail by the Division Bench of the Principal Bench till 31.12.2015, the order of the High Court of Judicature at Bombay, Nagpur Bench, Nagpur, directed the Petitioner to surrender within 48 hours of the order. Consequently, the Petitioner surrendered on 25.12.2015.

- 07.01.2016 The special petition was filed before the Supreme Court of India
- 22.01.2016 Notice is issued to the government of Maharashtra on the petition

(Excerpted from the special leave petition)