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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.328 OF 2015

Dr.Maulik Chandulal Joshi	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

WITH
CRIMINAL BAIL APPLICATION NO.347 OF 2015

Dr.Digna Ajay Sharma	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.Ashok Mundargi, Senior Advocate, with Mr.Adwait Sethna, Mr.D.PSingh and Ms.Ruju Thakker, for the Applicant in Criminal Bail Appln. No.328 of 2015.

Mr.Udayan S. Jain a/w Grishma Lad, Mittal Oza, Paridhi Vora, Jayshree Tripathi, in Criminal Bail Appln. No.347 of 2015.

Ms.A.T.Javeri, APP for the Respondent – State in Criminal Bail Appln. No.347 of 2015.

Ms.P.P.Shinde, APP for the Respondent – State in Criminal Bail Appln. No.328 of 2015.

API – Jaid, Central Police Station, Ulhasnagar.

CORAM : REVATI MOHITE DERE, J.

DATED : 4th MARCH, 2015.

PC.

1. Heard learned counsel for the applicants and learned APP for the Respondent – State.

2. By these applications, the applicants are seeking their enlargement

on bail, in connection with C.R. No. I-496 of 2014 registered with the Central Police Station, Ulhasnagar, for the alleged offences punishable under Sections 370 r/w 34 of the Indian Penal Code.

3. The applicant in Criminal Application No.328 of 2015 is Dr.Maulik Joshi, who is the owner of the hospital, where the alleged trafficking of children was taking place. The applicant in Criminal Bail Application No.347 of 2015 is one Dr.Digna Ajay Sharma, a homeopathic doctor, who would refer patients to the said hospital.

4. According to the prosecution, one Santosh Kharat, who was working with an NGO, received a call in the night, from an unknown person, informing him that one Sunita Lahori was going to sell her 2 month old baby with the help of Ratna Ubale, Raju More and Babita Hirve in Dr.Maulik Joshi's Hospital. It is alleged that the 2 month baby was going to be sold on 16th December, 2014, and hence the first informant contacted the police pursuant to which a raid was conducted in Dr.Joshi's Hospital, on the intervening night of 16th and 17th December, 2014. In the said raid, Sunita Lahori was found present alongwith her two month old child. Sunita Lahori came to be arrested on 17th December, 2014 and

thereafter all the accused viz. Ratna, Sunanda and Babita and the present two applicants came to be arrested on 20th December, 2014.

5. Mr.Mundargi, learned senior counsel for the applicant in Criminal Application No.328 of 2015 contended that the applicant is a highly qualified Gynecologist having degrees in M.D. DGO and DNB and has been running the said Nursing Home for the last 10 years, having a blemish free career. He submitted that the principal allegation as against the applicant is, that he had not kept records of the admission and treatment given to the patients. He submits that the said patient – Sunita was referred by Dr.Digna Sharma. He submitted that there is absolutely no evidence as against the applicant to attract the provisions of Section 370 r/w 34 of the Indian Penal Code.

6. Similarly, Mr.Jain, learned counsel for the applicant in Criminal Bail Application No347 of 2015 submitted that Dr.Digna was a practicing homeopath and that she would refer patients to Dr.Joshi, for allopathy treatment, if required by the patients. He submitted that there are no allegations that the applicant had indulged in trafficking of children.

7. Learned APP opposed the bail applications. She submitted that there are statements of the employees of the hospital which show that the records were not maintained by the Hospital authorities of which Dr.Joshi was the owner, with regard to the admission and treatment given to the patients. She submitted that the statement of Sunita Lahori shows that the child was brought to be sold at the instance of Ratna, Sunanda and Babita. She submitted that the investigation is in progress and the charge sheet is likely to be filed soon.

8. Perused the statements of the employees of Dr.Joshi's hospital. The employees statements reveal that although Sunita Lahori was referred by Dr.Digna, they were not aware why she was admitted and that no treatment was given to her. The statements do not in any way reveal that there was trafficking of children, going on in the Hospital. So far, there are no statements which support the prosecution with regard to trafficking of children in the Hospital. Sunita Lahori does not mention meeting Dr.Joshi.

9. Perused the papers of the investigation, more particularly the statement of the employees and certain other witnesses. It appears that

there is no material so far, to suggest that the applicants were indulging in trafficking of the person.

10. Considering the peculiar facts of the case, and the material on record, the Applicants deserves to be enlarged on bail on the following terms and conditions ;

ORDER

- i) The Applicants - Dr.Maulik Chandulal Joshi and Dr.Digna Ajay Sharma, be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- each with one or two sureties in the like amount ;
- ii) The Applicants shall attend the Central Police Station, Ulhasnagar, once a week i.e. on every Saturday, between 10.00 a.m. to 12.00 noon, for a period of one month from today and thereafter as and when called for by the Investigating Officer ;
- iii) The Applicants also not to enter the hospital premises, till the filing of the charge sheet;
- iv) The Applicants shall not tamper or attempt to influence any person concerned with the case ;
- v) The Applicants shall co-operate in the conduct of

the trial ;

- vi) It is made clear that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

11. The Application is allowed and disposed of in above terms.

12. The aforesaid observations are prima-facie, and the Trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

13. Parties to act upon an authenticated copy of this order.

(REVATI MOHITE DERE, J.)