

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 518 OF 2013

The State of Maharashtra ... Applicant.
Versus
Dr. Hemantkumar Bhikachand & anr. ... Respondents.

Ms. P.P. Shinde, APP for State.

Mr. B.V. Holambe Patil, advocate for respondent No. 2.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 3, 2015

P.C.:

1 Heard the learned APP for State and the learned Counsel for the respondent No. 2.

2 This is an application filed by the State seeking cancellation of the regular bail granted in favour of the respondent vide order dated 3rd August, 2013 by the Additional Sessions Judge, Palghar, Dist. Thane.

3 The prosecution case against the present applicant is that they had performed medical termination of the pregnancy upon a minor girl. The respondents happen to be qualified doctors running Vaishali Nursing Home. It was contention of the respondents that mother had disclosed the age of the victim as 18 years. The learned Sessions Judge has assigned justifiable reasons for granting pre-arrest bail. The learned Sessions Judge has considered the fact that the respondents/applicants were never informed that the victim girl had been raped.

4 Be that as it may, investigation is completed and charge-sheet is filed. There is no averment that the respondents herein have not cooperated with the investigating agency.

5 The learned APP submits that in fact, doctors should have been diligent and should have enquired the state of affairs from the victim herself.

6 The parameters for grant of bail and cancellation of bail would be different. It appears from the record that the victim girl was carrying pregnancy of almost about 8 months when she was advised to undergo medical termination of the pregnancy. The respondents herein have submitted that taking into consideration the health, safety and danger to life of the victim, they were constrained to perform the medical termination of pregnancy and have utilised their medical knowledge to the best of their capacity to save life of the victim. However, all these aspect can be considered at the time of trial. As on today the investigation is completed and charge-sheet is filed. There is nothing on record to indicate that the respondents have committed breach of the conditions imposed upon them. And hence, the application being sans merit deserves to be rejected.

7 The order passed by the learned Sessions Judge does not call for any inference. Hence, the application is rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)