

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

5 CRIMINAL APPLICATION NO. 1964 OF 2016
IN APPLN/2996/2012

DR. MADHAV S/O. TRIMBAK SANAP
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Jadhav N.L.
APP for Respondent : S.N. Morampalle
...

CORAM : T.V. NALAWADE, J.
DATED : 2nd May, 2016.

ORDER :

1. The application is filed for relaxation of conditions, for permission to withdraw the undertaking given by the present applicant to this Court in Criminal Application no. 2996/2012. Heard both the sides.

2. In aforesaid application, which was filed in crime registered for offences punishable under sections 420, 468, 469, 471, 34 of Indian Penal Code and section 3 and 6 of Bombay Nursing Home Act, bail was granted to the present applicant by this Court as he gave undertaking by making statement that he will not practice as a doctor and he will not allow anybody to run the hospital, which is owned by him, if the bail is granted to him. At that time, there was conviction against him for the offences punishable under Pre-conception and Pre-Natal Diagnostic

Techniques (Prohibition of Sex Selection) Act, 1994 ('P.C.P.N.D.T. Act' for short). This Court had observed that he had tried to create false record to show that one other doctor was running the hospital and he was not involved in running of that hospital. This Court had made observations with regard to the female foeticides and due to that, reduction in the sex ratio in this region. Due to strict measures taken, there was some improvement in the sex ratio, but the sex ratio has not yet crossed 900.

3. The learned counsel for applicant placed reliance on order made by the other Hon'ble Judge of this Court in **Criminal Application No. 4967/2015 on 18.12.2016**. It appears that in Regular Criminal Case No. 368/2005, in which he is convicted for offences punishable under sections of P.C.P.N.D.T. Act, this Court suspended not only the sentence, but also the conviction given to the present applicant.

4. The learned counsel placed reliance on one order made by the Division bench of this Court in **Writ Petition No. 7560/2014 between Dr. Subhash Singh and Maharashtra Medical Council on 7.10.2014**. He submitted that there is the power to authority like Medical Council to suspend the licence

and it needs to be left with Council to decide as to whether licence needs to be suspended or not. He submitted that in view of the suspension of conviction made by this Court in Criminal Application No. 4967/2015, the Medical Council has revoked the suspension order made against him and so, he is now entitled to practice in medical field. He submitted that in view of these circumstances, permission needs to be given to him to withdraw the undertaking given by him in aforesaid bail application. He submits that medical practice is the only source of livelihood to him.

5. The termination of pregnancy to avoid the birth of female child was increased to alarming extent in this area and at one time, the ratio had gone below 825. Only due to strict measures taken for enforcement of the provisions of P.C.P.N.D.T Act, there is improvement to some extent. Thus, the only thing which needs to be done is to create fear in the mind of everybody so that for making money, no practitioner does the sex determination which ultimately leads to female foeticides. In the present matter, there are two cases against the present applicant and in one case, the other Hon'ble Judge of this Court has suspended the conviction of the applicant. In view of these circumstances, this Court holds that there cannot be relaxation

of the conditions. Such relaxation will be against the interest of the society. In the result, the application stands rejected.

[T.V. NALAWADE, J.]

ssc/