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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6416 OF 2015

Dr. Naresh Vasant Gavande ...APPLICANT

VERSUS

The State of Maharashtra ...RESPONDENT

Mr Satej S. Jadhav, Advocate for applicant;
Mr S. Y. Mahajan, Addl. Public Prosecutor for respondent
Mr P. S. Shendurnikar, Advocate to assist Addl. Public Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 20th January, 2016

ORDER :

By this application under section 438 of the Code of Criminal Procedure, the applicant seeks his release on pre-arrest bail, in connection with C.R. No.191 of 2015, registered with police station, Pachora, District Jalgaon, for offence punishable under section 304 of the Indian Penal Code.

2. The incident is alleged to have taken place during the period between 9th August, 2014 and 14th August, 2014, for which first information report has been lodged on 4th November, 2015.

3. The complainant has alleged in the first information report that, her husband Datta was hospitalized in the hospital run by the applicant, who is a practitioner in Ayurvedic System of Medicine. The applicant has treated

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him by administering such medicines, to which in law, he was not entitled to, being a holder of degree in Ayurvedic System of Medicine.

4. Learned Counsel appearing on behalf of the applicant would urge that inordinate delay in lodging the first information report has not been explained by the complainant. He then would urge that the basic ingredients for constitution of the offence punishable under section 304 of the Indian Penal Code are not made out. He then would urge that the applicant being a practitioner in Ayurvedic System of Medicine possesses certain image in the society and as such, there is hardly any likelihood of he fleeing away from the process of justice. On these grounds, he prays for release of the applicant on pre-arrest bail.

5. Pursuant to the query made by the Court, learned Addl. Public Prosecutor submits that the applicant has co-operated in the investigation and has submitted all the papers in relation to the treatment administered by him to deceased Datta.

6. The prayer for bail is strenuously opposed by the complainant on the ground that the applicant has mis-advised the complainant, which has resulted into untimely death of her husband. He would then urge that the Experts Committee constituted also has blamed the applicant for incorrect treatment administered to the deceased. He would then urge that looking to the nature of material available against the applicant, his custodial interrogation is necessary. He, therefore, prayed to reject the application.

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7. Having bestowed my anxious thought to the submissions, it is noted that the applicant is booked for offence punishable under section 304 of the Indian Penal Code. It is further noted that, looking to the nature of the allegations made in the first information report, the basic ingredients for constitution of offence punishable under section 304 of the Indian Penal Code are not satisfied. The husband of the complainant, namely, Datta, at the relevant time, was suffering from high fever and it is neither the case of the complainant nor is there any record that the applicant has caused any surgery, to which he was not entitled to, or that he had intentionally administered such medicines to the deceased, which has resulted into his death.

8. Apart from above, it is noted that the applicant herein holds immovable property and has co-operated in the matter of investigation. Looking to the image of the applicant in the society and his qualification and particularly the stage of investigation, his custodial interrogation is not necessary.

9. In view thereof, in my opinion, it will be appropriate to enlarge the applicant on pre-arrest bail. I, therefore, pass following order :-

In the event of arrest of the applicant, in connection with C.R. No.191 of 2015, registered with police station, Pachora, District Jalgaon, for offence punishable under section 304 of the Indian Penal Code, he be

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released on bail, on furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

The applicant shall attend the concerned police station initially during the period from 27th to 29th January, 2016, between 10.00 a.m. and 12.00 noon and thereafter as and when called for by the Investigating Officer.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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