

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION No.876 OF 2016

Kailash Gopaldas Notane .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.A.M.Adagule, Advocate, for the Applicant
Mr.Arfan Sait, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 04.05.2016

P.C.

. Heard learned counsel for the Applicant
and the learned APP for the Respondent – State.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.133 of 2015 registered with the Kodoli Police Station, District – Kolhapur, for the alleged offences punishable under Sections 312, 313, 315 r/w.34 of the Indian Penal Code, under Sections 3(1), (2), (3), 5(2), 6, 18, 23 of the Pre-Conception and Pre-Natal Diagnostic Act

Techniques Act and under Sections 3, 4, 5(2)(4) of the Medical Termination of Pregnancy Act.

3. According to the prosecution, Accused No.1-Dr.Tanaji Shivaji Patil terminated the pregnancy of one Sou.Vrushali Prakash Kumbhar with the help of the other co-accused. It is stated that the Accused No.1-Dr.Tanaji Patil has 2 dispensaries; one at Kolhapur and other at village-Kale and that the pregnancy of Sou. Kumbhar was terminated at village-Kale. It is alleged that Accused No.1-Dr.Tanaji Patil was not a qualified Doctor; that he had no medical knowledge for performing the abortion; and that he was not registered under the Medical Practitioners Act. According to the prosecution, the present Applicant had provided the MTP Kit (CAM Kit) to the Accused No.1-Dr.Tanaji Patil on his demand, pursuant to which Accused No.1-Dr.Tanaji Patil performed the abortion.

4. Learned counsel for the Applicant submits that the only allegation qua the Applicant is that he provided the MTP Kit (CAM Kit) to the Accused No.1-Dr.Tanaji Patil, who is not a qualified Doctor. He submitted that investigation is complete and charge-sheet is filed.

5. Learned APP does not dispute the fact that the only allegation qua the Applicant is that he provided the MTP Kit (CAM Kit) to the Accused No.1-Dr.Tanaji Patil.

6. Perused the papers. It is not the case of the prosecution that the Applicant committed the act of abortion. The only allegation qua the Applicant is that he provided the MTP Kit (CAM Kit) to the Accused No.1-Dr.Tanaji Patil, pursuant to which he performed the abortion. Investigation is complete and charge-sheet is filed.

7. Considering the same, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;

(ii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)