

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.917/2016

Dr. Mohan S/o Narayan Tundalwar Vs. State of Maharashtra, through P.S.O.,
P.S.Kalamb, District Yavatmal.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Saurabh Chaudhari, Advocate for applicant.
Mr. S.D.Sirpurkar, A.P.P. for non applicant/State.

CORAM : S. B. SHUKRE, J.
DATE : OCTOBER 25, 2016

Heard the learned counsel for the applicant and the learned A.P.P. for non applicant/State. Perused the FIR and reply filed by the prosecution. I have also gone through the case dairy.

Although it is alleged that this applicant was a person not having any bachelor degree in Medicine and Surgery or Doctorate and was only having D.H.M.S. Qualification and yet performed the operation which caused miscarriage of the pregnancy of the deceased Rupali, the charge sheet does not show any material of the basis on which it could be said there is, prima facie, substance in the said allegations. In fact, this applicant had filed previously an application for grant of Anticipatory

Bail. But, considering the nature of the allegations and the need for making effective investigation, this Court expressed its declination to grant the application. This Court, however, allowed the applicant to surrender himself to be in custody of the concerned Court, which he did. That is how, now, the applicant is in Jail. So, sufficient opportunity was offered to the investigating agency to make effective investigation in the matter. It appears that even then, sufficient material could not be collected. It is not for this Court to go into the reasons for not collecting or gathering sufficient evidence. This Court, while considering the Bail Application under Section 439 of the Code of Criminal Procedure would be concerned only with as to whether the material present on record which on the date such application is decided, would justify further detention of the applicant in jail.

Viewed in this way, I find that there is no such material available on record which would warrant further detention of the applicant in Jail. Therefore, I am inclined to allow this application. The application is allowed.

It is therefore directed that the applicant be released on bail on his furnishing a P.R.Bond in the sum of Rs.20,000/- together with one solvent surety in the like sum, on the condition that the

applicant shall attend the courts dates regularly fixed in the matter, shall co-operate with the trial Court for expeditious disposal of the case and shall not tamper with the prosecution witnesses in any manner.

JUDGE

Andurkar

CERTIFICATE

I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.

Uploaded by: J.S.Andurkar.

Uploaded On:26.10.2016