

Anand

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.872 OF 2017

Hemant Baban Atole .Applicant

Vs.

The State of Maharashtra .Respondent

WITH
BAIL APPLICATION NO.965 OF 2017

1. Dr. Madhukar Chandrakant Shinde .Applicants
2. Santosh Vijay Otari

Vs.

The State of Maharashtra .Respondent

Mr.D.Khamkar, Advocate, for the Applicant in
B.A.No.872 of 2017

Mr.K.S.Patil i/b. Mr.Prashant Hagare, Advocate, for the
Applicants in **B.A.No.965 of 2017**

Mr.S.S.Hulke, APP, for the Respondent - State in
B.A.No.872 of 2017

Mrs.Rutuja Ambekar, APP, for the Respondent - State in
B.A.No.965 of 2017

CORAM : REVATI MOHITE DERE, J.

DATE : 28.04.2017

P.C.

. Heard learned counsel for the parties.

2. By these Applications, the Applicants seek their
enlargement on bail in connection with C.R.No.151 of 2017

registered with the Yavat Police Station, Pune(Rural), for the alleged offences punishable under Section 420 of the Indian Penal Code and under Sections 33, 34 & 36 of the Medical Practitioners Act.

3. Learned counsel for the Applicants submits that no offence as alleged is disclosed qua any of the Applicants. They submit that Dr. Madhukar Shinde, the Applicant in B.A.No.965 of 2017 has already been prosecuted under the Pre-Conception and Pre-Natal Diagnostic Techniques Act (For short "PCPNDT" Act)and as such, the aforesaid prosecution was bad-in-law. They submit that the Applicants have been in custody since 07.03.2017 and that investigation is complete and charge-sheet is filed.

4. Perused the papers.

5. The aforesaid complaint is lodged by Dr. Rupali Rajesh Pakhare, a Medical officer working as a Superintendent at Gramin Hospital, Daund, Pune. It is alleged by the Complainant, that on 10.03.2017, the police from the Yavat Police Station informed her that some ladies were brought in a car for sex

determination to the house of one Somnath Hole, a resident of Birobachidwadi, Taluka - Daund, District - Pune and was asked her to remain present. According to the Complainant, she went to the said place alongwith two police personnels and two panchas. In the said house, the police found three persons alongwith three ladies and sex determination articles. On enquiry, the ladies are stated to have disclosed that they had come there for sex determination. Pursuant thereto, a panchanama was conducted, the articles including sonography machine were seized and the Applicants were arrested. The Applicants in ABA No.965 of 2017 are; Applicant No.1 - Dr. Madhukar Shinde is a qualified M.B.B.S., D.G.O. and the Applicant No.2 - Santosh Otari, was working as a driver with Dr. Madhukar Shinde and the Applicant - Hemant Atole in ABA No.872 of 2017 was working as an assistant to Dr. Madhukar Shinde. It is not in dispute, that a case has been registered as against Dr. Madhukar Shinde under the PCPNDT Act. Investigation is complete and charge-sheet is filed. Prima facie, it is doubtful, whether offences punishable under the IPC and under Sections 33, 34 & 36 of the Medical Practitioners Act, are disclosed in the facts of the case.

6. Be that as it may, considering the fact that

investigation is complete and charge-sheet is filed, the Applications are allowed and the Applicants are enlarged on bail on the following terms & conditions:-

O R D E R

(i) The Applicants be enlarged on bail, on executing PR Bond in the sum of Rs.20,000/- each with one or two sureties in the like amount;

(ii) The Applicants shall inform their 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.

7. The Applications are allowed in the aforesaid terms and are accordingly disposed of.

8. 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.)