

dik

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

CRIMINAL BAIL APPLICATION NO. 2430 OF 2016

Meena Sunil Patade	...Applicant
vs	
The State of Maharashtra	...Respondent

.....
Mr Deepak K. Pradhan for the Applicant
Mr Arfan Sait, APP for the Respondent
Mr Y.S.Salgude, API Crime Unit-4 Ulhasnagar, Thane city present.
.....

**CORAM : SMT SADHANA S. JADHAV, J.
19 JANUARY, 2017**

P.C. :

Heard. This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 10 February, 2016 in Crime No.216 of 2015 registered at Badlapur Police Station on 4 December, 2015. The investigation is completed and charge-sheet is filed against the applicant for the offence punishable under Sections 420, 466, 467, 468 r/w 34 of Indian Penal Code; Section 19(A) of the Transplantation of Human Organ Act, 2011 and Section 66(d) of the Information and Technology Act, 2005.

2 It is the case of the prosecution that on 4.1.2015 Dr. Krishna Nimsakhare, who runs Bhagwati Hospital, lodged a report at the police station alleging therein that his father is suffering from

diabetes, both the kidneys of his father had failed. He had to undergo dialysis everyday. Doctor had, therefore, decided to perform kidney transplantation of his father. They were in search of some relatives whose blood group would map with his father. Unfortunately, blood group of his father could not match with the blood group of his relatives. He was searching for some donor on the INTERNET and at that time he had received phone call from one K.A.Binto who had expressed his willingness to donate his kidney. The first informant had called upon the proposed donor to Mumbai. He was taken to Jupiter Hospital for examination. The first informant was aware that in Maharashtra it would not be permissible to accept any person as a donor who is not related to the patient by blood. Mr K.A. Binto had informed the first informant that he is acquainted with one Smt Karishma Resident of Delhi who would find out a way. The first informant had learnt that there are no such restrictions in Delhi, Chandighad and Calcutta. Karishma has also informed that he had to incur an expenditure of Rs.20 to 22 Lacs for transplantation. The first informant was willing to spent said amount for his father.

3 On 1st September, 2015 one Kaif Khan had called upon the first informant and had informed him that he is working in Max Hospital in Delhi for past 7 years and he would facilitate the operation for transplantation. The said Kaif Khan had also offered operation upon the father of the first informant at Max Hospital as there were no restrictions in Delhi. He had collected expenses for about Rs. 21 Lacs. The first informant was called to Delhi. The first informant was called

to Sagar Ratna Hotel, where he met Kaif Khan and his boss Mrs Neha Mehta. Mr Kaif Khan and Neha Mehta had also informed that they would complete all formalities provided the informant would give all the necessary documents. Thereafter, they met Dr Deepak Jain who was Nephrologist. All the reports of the patient were shown to the said doctor on 27 September, 2015. The first informant had taken his father to Delhi where they met Piyush Nimawat who had agreed to donate his kidney. The pathological report of the donor and patient were taken. The first informant had given all the necessary documents to Kaif Khan and the date of operation was to be scheduled on 30 September, 2015. The first informant had transferred amount of Rs.2 Lacs in the name of Smt Mehta. After several correspondence, the operation could not be scheduled. The first informant decided that his father will not undergo the operation, and therefore, had requested the said persons to return the amount. They had issued cheques, which were dishonoured. They had taken Rs.5 Lacs from the first informant and then the first informant realized that it was a racket.

4 Perused the statement of Piyush Nimawat. Piyush who is originally resident of Gujrat, has disclosed to the police that he was willing to offer his kidney for financial necessity. In September 2015 he received phone call from Meena Patade, that is the present applicant who had inquired as to whether Piyush is willing to donate his kidney. Piyush had also disclosed that since he desires to give proper medical treatment to his mother, he is willing to donate his kidney as he is in need of Rs.5 Lacs. The present applicant had

informed him that her father is in need of kidney and that would pay Rs.4.50 lacs. She had inquired about blood group. Thereafter, the present applicant had contacted Piyush on several occasions. She had also asked him to learn Marathi as it was necessary to inform the doctor that he is her relative. Meena that is the applicant had taken money and called Piyush to Max Hospital on 20 September, 2015. She was constantly in contact with Piyush. It is clear that she was a member of the racket.

5 Learned counsel for the applicant had initially stated that the name of the applicant is not stated in the FIR and she is falsely implicated and there is no connection with the present case.

6 It is pertinent to note that the first informant has mentioned that when he had been to Max Hospital, Piyush was the proposed donor. The statement of Piyush would clearly indicate that he was offered Rs.4.50 Lacs by the present applicant to donate his kidney to the father of Dr. Nimsakhare. It was an illegal operation of kidney. The people in need are approaching the people like the present applicant. They are offered cost for offering the organ as if it is a saleable commodity.

7 Taking into consideration the direct role attributed to the applicant, no sympathy can be shown towards her. She does not deserve to be enlarged on humanitarian grounds. The papers of investigation clearly indicates that the applicant is a nurse by

profession.

8 Learned APP rightly submits that in all probabilities on earlier occasions also she has dealt in such activities and unfortunately they have not come to light.

9 It is, in these circumstances, the applicant does not deserve to be enlarged on bail. The application being sans stands rejected.

(SMT SADHANA S. JADHAV, J.)