

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

ANTIICIPATORY BAIL APPLICATION NO. 118 OF 2018

Sukhdev Shankar Kadam.	... Applicant.
Versus	
The State of Maharashtra.	... Respondents.

Mr. Arun D. Mishra, advocate for Applicant.

Mr. N.B. Patil, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 22, 2018**

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State.

2 This is an application under section 438 of the Code of Criminal
Procedure, 1973. The applicant herein is apprehending his arrest in
Crime No. 249/2017 registered at Malshiras Police Station for offence

punishable under section 315, 312, 201 of the Indian Penal Code and section 5 of Medical Termination of Pregnancy Act.

3 It is the case of the prosecution that on 13/9/2017 Dr. Mallikarjun Revappa Pattanshetty, Civil Surgeon, Solapur lodged a report at the police station alleging therein that he had received a report from District Health Officer Dr. Shitalkumar Jadhav that there is complaint that Prenatal Diagnostic Techniques and Medical Termination Act is rampant and Dr. Sukhadev Shankar Kadam and Dr. Vijaysinh Bhagat are indulging into causing medical termination after the pregnant women are diagnosed with female fetus. The complainant had made an enquiry with Dr. Rupali Chinchnikar and Dr. Pankaj Date, Mrs. Shital Markad and others and it was revealed that the present applicant is rather indulging into the said unlawful practice. Qualification of the present applicant is BAMS. He is not registered with the Maharashtra Medical Council as no registration is required according to the Counsel. On the basis of the said report,

offence was registered. The investigating agency as well as enquiry officer has recorded the statements of 8 women.

4 The learned APP has submitted the list of women, whose names are reflected in the first information report. Most of the women except Manisha Mulik and Kajal Budhawale have been mother of either one, two or three daughters and on the second or third occasion, they have undergone prenatal diagnostic test. They were again diagnosed with female foetus and hence, they have undergone M.T.P..

5 The learned Counsel for the applicant submits that the applicant has not indulged into any such practice. It is also submitted that the women had approached the applicant and had offered to undergo M.T.P. As per the Act they also would be an accused and they cannot be witnesses. The investigation is still in progress.

6 The learned APP upon instructions submits that the Investigating Officer would add the women as accused persons except

Manisha Mulik and Kajal Budhawale. It is an unethical practice. The modus of destroying the entity is dangerous.

7 Upon perusal of the statement of the said women, it appears that the present applicant used to administer some tablets to them and also inject them in order to induce abortion.

8 Learned APP submits that in fact, Anganwadi sevika used to keep a record of pregnant women in the village. They had noticed that the women found to be pregnant were no more carrying pregnancy after 4th or 5th month and therefore, the same was reported. Fortunately the District Health Officer as well as Civil Surgeon has taken cognizance of the same.

9 Taking into consideration the papers of investigation and the statements of witnesses, this Court is of the opinion that the applicant does not deserve to be granted pre-arrest bail. The application being sans merits stands rejected.

10 However, it is made clear that the observations are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and the same shall not be taken into consideration at the time of trial.

11 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)