

42- BA 939 of 2018

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION No. 939 OF 2018**

**Dr. Ashwini Suhas Jadhavar
@ Ashwini Hiralal Gaikwad**

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. M.S. Mohite i/b. Mr. Vishwanath S. Talkute for Applicant

Mr. Vinod Chate-APP

Mr. K.T. Undare, API, Sangola Police Station, Solapur.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JUNE, 4, 2018

P.C.

1. Heard. This is an application filed under section 439 of the Code of Criminal Procedure Code. The Applicant herein is arrested on 8th of February, 2018 in Criminal No. 114 of 2018 registered at Sangola Police Station for the offence punishable under section 312, 315 and 201 r/w. 34 of the Indian Penal Code and under Section 5 of the Medical Termination of Pregnancy Act, 1971. . The investigation is completed and the charge-sheet is filed on 29th March, 2018.

2. It is the case of the prosecution that the Applicant holds a degree in Medicine i.e. MBBS and her husband holds a degree of MBBS.DGO. That the

couple was running a hospital by name “Dhanashree Hospital and Maternity Home”. The Applicant along with her husband was prosecuted in RCC No. 401 of 2016 under various provisions of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (for short “the said Act”) and Rules 13 and 18 of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 (for short “the said Rules”). The Applicant was acquitted vide judgment and order dated 9th December, 2016. However her husband Suhas Sampat Jadhavar was convicted for the offence punishable under Section 23 of the said Act for contravention of Rule 13 of the said Act. The Medical Council had cancelled the registration of “Dhanashree Hospital and Maternity Home”. The husband of the Applicant has filed an application seeking renewal of the license. At present the Applicant along with her husband is running a hospital in the name of “New Dhanashree Hospital and Maternity Home”.

3. It is the case of the prosecution that Dr. Sandeep Siddhaling Belpatre, who was working as Medical Officer at Sangola, lodged a report at the Sangola Police Station, alleging that there is reliable information that the applicant is indulging in illegal termination of pregnancies in contravention of the provisions of Medical Termination of Pregnancy Act. That 13 cases were

referred in the said FIR. The case summary is placed on record by the learned counsel for the Applicant in Serial Nos. 1 to 10, it appears that there was no medical termination of pregnancy but there was evacuation of foetus on medical ground and the same did not amount to contravention of the provisions of PCPNDT or Medical Termination of the Pregnancy Act. It appears that in Case No.11, the pregnant woman had two girls and one boy and, therefore, was intending to undergo family planning operation and did not want a fourth child. She was carrying pregnancy of more than 9.2 weeks and undergone medical termination of pregnancy at the hospital of the present Applicant. Similarly, in case of Sonia Tanaji Lohar, there was medical termination of pregnancy after 7.3 weeks as the couple did not want to have a child. In case of Sakhubai Sambhaji Tone, the pregnancy was more than 9 weeks.

4. In these circumstances, the Applicant was arrested and has been charge-sheeted under sections 312, 315 and 201 r/w. 34 of the Indian Penal Code and under Section 5 of the Medical Termination of Pregnancy Act, 1971.

5. Taking over all view of the papers of investigation and taking into consideration the fact that charge-sheet is filed on 29th March, 2018, prima facie, a case is made out by the Applicant for grant of bail. Hence, following order:

ORDER

(i) Bail Application is allowed.

(ii) The Applicant be enlarged on bail on her furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

(iii) The Applicant, within one week from the date of her release on bail, shall give an undertaking to the Medical Council, Sangola Police Station as well as District Surgeon, Solapur that she will not practice in Medicines in any firm or at any place till conclusion of the trial.

Bail Application is disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]