

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

BAIL APPLICATION NO.1315 OF 2018

Vishnu Sheshrao Gite Applicant

Vs.

The State of Maharashtra Respondent

Mr. Amitkumar Damodar Sale a/w Mr. P.B. Gujar for the Applicant.
Mr. S.S. Pednekar, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 13th August, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This application is filed under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 29th June 2017 in Crime No.367 of 2017, registered at Pandharpur Taluka Police Station, for the offences punishable under Sections 3(1)(2)(3) (4), 4(1)(2) and 5(2) of the Medical Termination of Pregnancy Act,

15(2) of Indian Medical Council Act, 33(2) of Maharashtra Medical Practitioners Act and 315 read with 34 of Indian Penal Code. The investigation is completed and the charge-sheet is filed.

3 It is the case of the prosecution that on 26th June 2017 API Pansare had received a secret information that one Sunita Vitthal Gaikwad is in the process of performing illegal abortion of a lady at her residence. The police had informed about it to the Medical Officer and with the help of Dr. Subhash Mangedkar had been to the house of Sunita Gaikwad where they have seen that a lady was being aborted. The said woman, who was being aborted had disclosed her name as Bhagyashree Gite. The woman i.e. Sangita had given her injections to induce the abortion of foetus. Sunita was not even a midwife. That the said disclosure had led to further investigation. The offence was registered at Pandharpur Taluka Police Station. The police had taken Bhagyashree to the Civil Hospital, Solapur, where the pregnancy was terminated as it got induced by Sunita at Pandharpur.

4 The present applicant happens to be the husband of Bhagyashree Gite. The statement of the wife of the applicant i.e. Bhagyashree was recorded on 2nd July 2017, wherein she had disclosed that she had got married to the present applicant on 8th January 2013. The applicant was working as a Teacher in an un-aided school at Parali. Bhagyashree was working in Post Office as a Branch Post Master at Hatola, Taluka Ambejogai. The couple was blessed with a daughter, whose name is Snehashri. That she had conceived pregnancy for the second time. When the applicant was of the opinion that she should give birth to a son. In view of this, he had contacted an agent and they had taken Bhagyashree for prenatal diagnosis. They were informed that she is pregnant with a female foetus and therefore he had suggested that the said foetus should be aborted. They had contacted an agent and through the agent they had contacted Dr. Sunita Gaikwad. The applicant had given Rs.35,000/- for medical termination of pregnancy. That Mrs. Gaikwad was not qualified. The life of Bhagyashree was at risk. Since, the applicant is in custody for more than one year, he deserves

to be enlarged on bail. However, it is made clear that none of the co-accused shall claim parity with the present applicant.

5 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial.

Hence, the order :

ORDER

- i) The application is allowed.
- ii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- each with one or more solvent sureties in the like amount.
- iii) The applicant shall not leave Taluka Parali without prior permission of the Court, even if it happens to be on service ground.
- iv) The applicant shall report to Pandharpur Taluka Police Station on first and third Sunday of each month.
- v) The applicant within four weeks from the date of being released shall give an undertaking to that effect to Pandharpur

Taluka Police Station as well as Parali Taluka Police Station that he shall not leave Parali till conclusion of the trial.

vi) He shall also give an undertaking that he will report before the Sessions Court at Pandharpur on all scheduled dates.

(Smt. Sadhana S. Jadhav, J.)