

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

BAIL APPLICATION NO.1354 OF 2018

Mr. Sukhdev Shankar Kadam Applicant
 Vs.
The State of Maharashtra Respondent

Mr. Arun D. Mishra for the Applicant.
Mr. Rajan Salvi, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 8th August, 2018

P.C.:

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

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 6th March 2018 in Crime No.249 of 2017, registered at Malsiras Police Station, for the offences punishable under Sections 312, 315, 201 of Indian Penal Code and Section 5 of Medical Termination of Pregnancy Act. The investigation is completed and charge-sheet is filed on 30th April 2018.

3 The applicant herein is a medical practitioner. He is B.A.M.S. He runs a Clinic at Medad, Taluka Malshiras. It is the case of the prosecution that on 13th September 2017, Dr. Mallikarjun Revappa Pattanshetty has lodged a report at the police station alleging therein that he had received a written report from Dr. Sheetalkjmar Jadhav that there are several Doctors, who are not permitted to perform medical termination of pregnancy, however, they are indulging into the same. Upon enquiry, it was revealed that the present applicant has performed medical termination of pregnancy on more than nine women in the said area, hence, the applicant has been shown as an accused. The investigating agency had raided the premises of Amruta Hospital. The applicant is running a Clinic in the name of Amruta Hospital. It appears that he was running a Clinic in his residential house. The records were seized from the said hospital as well as from Aditya Nursing Home. The house was searched on 17th September 2017. It appears that the applicant had caused dis-appearance of evidence before the house was raided, since the house was raided on 17th September 2017.

Thereafter the applicant had approached the Court under Section 438 of Cr.P.C. The said application was rejected by this Court on 22nd February 2018 and thereafter the applicant had surrendered. In the course of investigation, the investigating agency has recorded the statements of several women, who had undergone medical termination of pregnancy in the clinic of the present applicant.

4 The modus operandi of the applicant was that he used to give certain tablets to the said women. Thereafter he used to induce bleeding and cause curating of the said foetus. In fact the applicant was not authorised to do such operations or to prescribe such medicines or to induce termination of pregnancy.

5 Learned counsel for the applicant, upon instructions submits that the applicant has received a notice from the Maharashtra Council of Indian Medicines. He has also given an undertaking that he would not continue with medical practise once enlarged on bail. It is clear that initially there was ascertainment of the gender of the foetus and thereafter the women had approached

Dr. Kadam. Some of the women were pregnant on fourth occasion and they were diagnosed with female foetus. Charge-sheet is filed on 30th April 2018. Moreover, the co-accused has been enlarged on bail. In view of this by virtue of doctrine of parity, the applicant also deserves to be enlarged on bail.

6 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.1,00,000/- with one or more solvent sureties in the like amount.

(Smt. Sadhana S. Jadhav, J)