

21- BA 309 of 2018

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

BAIL APPLICATION No. 309 OF 2018

Pravin Patangrao Jamdade

...Applicant

Vs.

State of Maharashtra

...Respondent

Mr. Kuldeep S. Patil for Applicant

Mr. Y.Y. Dabake -APP

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 23, 2018

P.C.

1. Heard. This is an application under Section 439 of Criminal Procedure Code.

2. The Applicant herein is arrested on 4th March, 2017 in Crime No. 53 of 2017 registered at Miraj Gramin Police Station, Dist. Sangli for offences punishable under section 314, 315, 316, 317, 318, 304, 201, 419, 420, 467, 468 r/w. 34 of the Indian Penal, under Section 33 of the Medical Practitioners Act, under section 3 and 6 of Maharashtra Nursing Home Act and under section 5(2),

5(3), 5(4) of Medical Termination of Pregnancy Act 1971.

3. It is the case of the prosecution that the Applicant herein happens to be a father of two daughters. His wife Swati had consumed pregnancy for a third time. That the Applicant wanted to ensure that it is a male child and therefore, she was asked to undergo sonography test. She was taken through agent to the hospital of Dr. Khidrapure. At the relevant time, Swati was carrying pregnancy of almost 18 to 19 weeks. The sonography test had revealed that she was carrying a female foetus and, therefore, she was forced to undergo medical termination of pregnancy. In the course of said operation, Swati had expired since damage was caused to the foetus also. It was Dr. Khidrapure and the present Applicant, who had taken Swati to Bharti Hospital. They had refused to even register the name after they had learnt that it would be treated as medico legal case and postmortem has to be done.

4. The learned APP, upon instructions, submits that there are two minor daughters to the present Applicant and now the brother of the Applicant and other members of the family are taking care of those two daughters. It is in these circumstances, the Applicant is seeking enlargement on bail.

5. No doubt it is a heinous offence. Dr. Khidrapure has acted in violation of all the medical ethics. It is in the course of undergoing medical termination of

pregnancy, Swati had succumbed to death. She was cursed only because she happens to be a mother of two daughters. Grant of bail, would not absolve the Applicant of the offences punishable under Section 302 and 201 r/w. 34 of the Indian Penal Code. However, in the interest of the two minor daughters, who have lost their mother, this Court is inclined to enlarge the Applicant on bail. The observations are prima facie in nature and shall not be taken into consideration for discharge application and /or at the time of trial. Hence, the following order:

Order

- (i) Bail application is allowed.
- (ii) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- and one or more sureties in the like amount.

Bail Application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]