IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2620 OF 2017

Anil s/o Vitthal Rakh .... Applicant
Vs.
The State of Maharashtra .... Respondent

Mr. Prabhanjan Gujar for the applicant.
Mrs. P.P. Shinde, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 29th January, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP. Perused the papers of investigation.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 6th July, 2017 in Crime No.376 of 2017 registered at Pandharpur Taluka Police Station for the offences punishable under Sections 315 read with 34 Indian Penal Code and under Sections 3(1)(2)(3)(4), 4(1)(2) and 5(2) of Medical Termination of Pregnancy Act, 1971 and under Section 15(2) of Indian Medical Council Act, 1956 and under Section 33(2) Maharashtra Medical Act, 1961.

3 It is the case of the prosecution that the wife of Vishnu Gite had conceived pregnancy. Vishnu was working as a Teacher. She was pregnant of about 3 to 4 weeks. The couple had decided that they would go for determination of the foetus and hence they had decided to go to Vijapur. They had hired a car of the present applicant. He was driving the said car and had taken them to Vijapur. He had contacted Mr. Basu alias Basavraj Shivling alias Shivlingappa Mali, who knew the doctors running such pre-diagnostic centres. He had taken the couple to the said Doctor for the purpose of sonography, however sonography could not be conducted on that day and Doctor had advised them to re-visit on 25th June, 2017. On 25th June, 2017, the couple had again travelled to Vijapur and had contacted the person suggested by the applicant. However, it appears that the applicant had not accompanied the couple on 24th, 25th and 26th June, 2017 to Pandharpur. It is, in these circumstances that the applicant deserves to be enlarged on bail. The pregnancy was to be aborted on 26th June, 2017 at Pandharpur. Except on one occasion, the applicant had not accompanied the couple at any point of time.

4 However, the observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

O R D E R

1 The application is allowed.

2 The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.

3 The applicant shall attend Pandharpur police station on 1st Sunday of each month from 10.30 am. to 12.00 noon till framing of the charge.

(*Smt. Sadhana S. Jadhav*, J)