

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

BAIL APPLICATION No. 3015 OF 2017

Shri Basu @ Basavraj Sivlingappa Mali ...Applicant
Vs.
The State of Maharashtra ...Respondent

Mr. Prabhanjan B. Gujar i/b. Mr. Arun V. Rakh for Applicant
Mr. Vinod Chate – APP
Mr. .N. Pansare, ASI Pandharpur Police Station

CORAM : SMT. SADHANA S. JADHAV, J.
DATE: JUNE 14, 2018

P.C.

1. Heard. This is an application filed under section 439 of the Criminal Procedure Code. The Applicant herein is arrested on 6th July, 2017 in Crime No. 367 of 2017 registered at Pandharpur Police Station for the offence punishable under section 315 r/w. 34 of the Indian Penal Code, under section 3(1),(2) (3) (4), 4(1), (2), 5(2) of the Medical Termination of the Pregnancy Act, 1971 and also under section 33(2) of the Maharashtra Medical Practitioners Act, 1961.
2. It is the case of the prosecution that the Assistant Police Inspector Mr.

Pansare had received an information that on 26th June, 2017 at Village Laxmi Talki one lady is undergoing illegal abortion at home. He had enquired with the lady. The same was disclosed to Dr. Mangedkar, who happens to be Medical Officer of Primary Health Centre, Godegaon. Thereafter, Dr. Mangedkar had verified the fact that in the said area, there were some doctors indulging into unethical practice and performing abortions after the female foetus was diagnosed. It was revealed that one Vijay Pattar i.e. the present Applicant and Basavraj Mali were working as agents. They used to take the pregnant women to sonography centres of prenatal diagnostic. The moment it was informed that it was the female foetus, they would want to undergo medical termination of pregnancy or that they were forced to undergo the same and taken to Doctor. They had approached Dr. Somshekhar Hattarkki at Vijapur.

3. The Applicant happens to be a rickshaw driver, who had taken the pregnant lady for pathological diagnoses to the Pathologist and, therefore, taken for sonography.

4. The learned counsel for the Applicant submits that by virtue of doctrine parity, the applicant deserves to be enlarged on bail as the co-accused Vijaykumar has been enlarged on bail in Crime No. 360 of 2017 registered at

Pandharpur Taluka Police Station.

6. The Applicant happens to be the resident of Vijapur which is in Karnataka State. Taking into consideration the principle of doctrine of parity, this Court is inclined to enlarge the Applicant on bail. Moreover, the charge-sheet is filed. The Applicant has been in custody for almost 10 months. The above mentioned observations are prima facie in nature and are restricted only for the present application filed under section 439 of the Criminal Procedure Code and shall not be taken into consideration for the purpose of deciding the application for discharge or at the time of trial. Hence, the following order:

ORDER

- (i) The bail application is allowed.
- (ii) The Applicant be enlarged on bail on furnishing a P.R. Bond in a sum of Rs.50,000/- and one and more solvent sureties in the like amount.
- (iii) The Applicant shall attend Kollar Police Station every 1st Monday of each month from 10.30 a.m. to 1.00 p.m. till framing of the charge and shall not visit Vijapur and Pandharpur, save and except the scheduled dates of the Court.

[SMT. SADHANA S. JADHAV, J.]

