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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.11 OF 2019

1. Dr. Anand Suresh Doshi,
 2. Dr. Jayashri Anand Doshi ..Applicants.
- V/s.
- The State of Maharashtra ..Respondent.

Mr.Surel S.Shah for the applicants.

Ms.S.S.Kaushik, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 31, 2019

P.C.:-

Heard learned counsel for the applicants and learned APP for the State.

2. Both the applicants were arrested on June 21, 2018 in crime No.129/2018 for offence punishable under sections 312, 315, 201, 212 read with 34 of the Indian Penal Code and section 5 of the Medical Termination of Pregnancy Act, 1971 registered with Velapur police station, District Solapur and charge-sheeted.

3. The prosecution case is, Dr.Mukund, the Medical Superintendent of Sub-Rural Hospital, Akluj, Taluka Malshiras received an information on June 9, 2018 from Dr.M.K.Inamdar and Ashwini Hospital, Akluj that a patient by name Nisha was admitted in his hospital for excessive bleeding and uncontrolled blood pressure. He, thereafter visited the hospital and interacted with the patient and noticed that the said patient underwent medical termination of pregnancy at Anand Maternity and Surgical Nursing Home, Velapur, which is owned / managed by both the applicants.

4. On June 11, 2018, the complainant visited the hospital of the applicants and noticed serious defaults in the said hospital in regard to non compliance of statutory requirement of maintaining the records of the patients undergoing treatment for termination of pregnancy. It was also noticed that approval / sanction from the Government for carrying out medical termination of pregnancy was neither obtained, nor the record of patient was maintained as contemplated under relevant statute.

5. In the aforesaid backdrop of serious allegations, learned counsel for the applicants submits that the applicants are

entitled to be released on regular bail as, but, for present offence there are no criminal antecedents and the maximum punishment provided under section 315 of the Indian Penal Code is of 10 years. According to him, the applicants are having deep roots in the society and they will be available for prosecuting the criminal case against them. On instructions from the applicants, learned counsel volunteers to furnish an undertaking before this Court that the applicants will reside outside the revenue jurisdiction of Solapur District, but for attending the trial in present case i.e. Sessions Case No.33/2018 before the Additional Sessions Judge, Malshiras and will also not operate the hospital / nursing home till the conclusion of trial.

6. Learned APP strenuously opposed the claim and submits that there is sufficient material available on record to *prima facie* infer direct involvement of the applicants in a serious crime having far reaching consequences over social structure of the society.

7. Learned APP then would urge that the bail application needs to be rejected with liberty to the applicants to approach after conclusion of a period of more than one year and she tried to

draw support from the statements of witnesses and materials placed on record to demonstrate *prima facie* involvement.

8. In addition to aforesaid, learned APP submits that the applicants absconded from the spot of incident when the investigating officer had threatened to arrest them.

9. Considered rival submissions.

10. So far as the offence in question is concerned, the offence under sections 313, 201 and 212 of the Indian Penal Code are bailable. So far as the offence under section 315 of the Indian Penal Code is concerned, the same is punishable with imprisonment for 10 years and the fact remains that the applicants were arrested and are behind bars for more than last seven months. Charge-sheet is already submitted.

11. There are no criminal antecedents of similar nature and the applicants, so as to show their *bona fides* have volunteered to stay away from Solapur District and not to operate their Hospital / Nursing Home which is accepted as an undertaking.

12. In the aforesaid backdrop, in my opinion, the application deserves to be allowed on the following conditions :-

i) The applicants be released on bail in Crime No.129/2018 for

offence punishable under sections 312, 315, 201, 212 read with 34 of the Indian Penal Code and section 5 of the Medical Termination of Pregnancy Act, 1971 upon furnishing P.R. bond of Rs.15,000/- with one or more sureties in the like amount;

- ii) The applicants to abide by their undertaking that they shall stay outside the revenue jurisdiction of Solapur District and till the conclusion of the trial will not operate their hospital / nursing home or shall not indulge into similar type of acts;
- iii) As volunteered, the undertaking to that effect be furnished within a period of one week from the date of the release before the learned Sessions Judge, Malshiras, District Solapur who is dealing with the trial ;
- iv) Failure to execute the undertaking with a copy thereof to the investigating officer will result in automatic cancellation of the bail granted by this Court without further reference to the Court;
- v) The applicants shall not influence the prosecution witnesses or tamper with the evidence;
- vi) Needless to state that the only exemption that can be

allowed to the applicants is to enter the jurisdiction of Solapur District only for attending the trial in Sessions Case No.33/2018 before the Additional Sessions Judge, Malshiras;

- v) The application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)