

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Criminal Application (BA) No. 508 of 2019

Kayum Shah and others

Vs.

State of Mah. Through P.S. Dahihanda Dist. Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.V.B. Bhise, Advocate for applicants
Mr.H.R. Dhumale, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 18, 2019

The applicants herein have approached this Court for grant of bail as they stood arrested on 15/05/2019, in connection with FIR dated 30/04/2019. In the said FIR, five persons have been named as accused, including the applicants herein. It is pointed out by the learned counsel for the applicants that the FIR was actually registered against unknown person and that the names of the accused persons surfaced after the investigation was undertaken by the police.

2. The allegation in the present case is that when the complainant saw a female fetus in a drain in the morning, he informed the President of the Gram Mandal and the police machinery was set in motion. It

was claimed that the fetus was actually delivered by the applicant No.2 and that she was having illicit relationship with the accused No.5. The applicants No.1 and 3 in the present case are the parents of applicant No.2. The other accused in the present case is a doctor against whom the allegation is that he has facilitated the other accused persons in carrying out the act that resulted in the female fetus being delivered and ultimately thrown in a drain. It is pointed out that the said accused Doctor was granted bail by order dated 07/06/2019, passed by the Sessions Court. In the present case, it is informed that investigation is underway and that the blood samples of the accused persons, particularly applicant No.2 and accused No. 5, have already been taken and sent for analysis so as to ascertain whether they are indeed connected with the said fetus. The FIR in the present case has been registered for offences under Sections 315 and 318 of IPC. Considering the nature of the offences registered against the applicants and the fact that applicant No.2 has already given her blood samples for analysis, this Court is of the opinion that conditional bail can be granted to the applicants. This is particularly so because presently the material on record has only demonstrated that the applicant No.2 along with other applicants had allegedly visited the co-accused (Doctor), but, beyond that there is no direct material to connect the applicants with the incident in question.

5. In view of the above, the present application is allowed and the applicants are directed to be released on bail on following conditions:

- a) The applicants shall furnish PR bond of Rs.15,000/- each and surety in the like amount.
- b) The applicants shall co-operate with the investigation and remain present before the Investigating Officer as and when required.
- c) The applicants shall not tamper with the evidence or influence the witnesses.

JUDGE