

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1233 OF 2020

Ramesh S/o Angat Shep ... Applicant.

Versus

The State of Maharashtra ... Respondent.

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Advocate for Applicant : Mr. V. D. Sapkal (Senior Counsel) i/b
Mr. S. R. Sapkal.

APP for Respondent-State : Mrs. D. S. Jape.

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CORAM : V. K. JADHAV, J.

DATE : 21.10.2020

ORDER :-

1. The applicant is seeking regular bail in connection with Crime No.319 of 2019 registered with Pundlik Nagar Police Station, Aurangabad City, District Aurangabad for the offences punishable under Sections 120-B, 314, 203, 201 of the Indian Penal Code. His application with similar prayer came to be rejected by the Additional Sessions Judge, Aurangabad, vide order dated 18.09.2020, below Exh.7, in Sessions Case No.156 of 2020.

2. The brief facts of the case are as follows :

On the basis of the M.L.C. received from Dr. Sachin Bangar of Lifeline Hospital situated at Beed Bypass, Aurangabad, informing therein about the death of Sarika Ramesh Shep in the hospital. A.D. No.27 of 2017 came to be registered at Police Station Jawahar Nagar, Aurangabad. Assistant Police Inspector Dattatraya Prabhakar Botke has visited the said Lifeline Hospital and drawn the inquest panchnama of the dead body of deceased Sarika Ramesh Shep (wife of the present applicant). He has thereafter sent the dead body for Post Mortem Examination. The Post Mortem on the dead body of Sarika was conducted on 22.07.2017. Two Medical Officers have conducted the Post Mortem Examination and preserved the pieces of organs for Histopathological Examination. The said Medical Officers have reserved the opinion till the receipt of the report of the Histopathological Examination. Dr. Santosh H. Bhosle, the Medical Officer, who has conducted the Post Mortem Examination on the dead body of the Sarika along with Dr. Amol G. Ganakwar, on the basis of the Histopathology Report, given the final cause of death as "Death due to post partum hemorrhage due to incomplete abortion". It has been revealed during the inquiry of the said

A.D. that the present applicant (husband of deceased Sarika), co-accused Angat (father-in-law of deceased Sarika) in collusion with Dr. Gajanan Shelke, Dr. Suraj Rana and one another lady Dr. Madhuri Waghmare have tried to cause miscarriage of deceased Sarika and death of Sarika was occurred in causing the said miscarriage. On the basis of the complaint lodged by Assistant Police Inspector - Dattatraya Botke on behalf of the State, the aforesaid crime came to be registered.

3. The learned senior counsel for the applicant submits that the investigation is over and the charge-sheet has been submitted long back. The applicant is in jail in connection with the present crime since 14.08.2019. The learned senior counsel submits that the applicant has been implicated in the crime only for the reason that he happened to be the husband of the deceased Sarika. It has been revealed during the course of investigation that deceased Sarika was taken to the hospital by co-accused Angat, father-in-law of deceased Sarika. It has been revealed during the course of investigation that on 21.07.2017, in the morning time, deceased Sarika was taken in the hospital of co-accused Dr. Suraj Rana name and styled as

“Sanjeevani Clinic” and Co-accused Dr. Madhuri Waghmare has operated deceased Sarika Shep for causing her miscarriage. However, deceased Sarika became serious and unconscious due to profuse bleeding, thus, she was immediately shifted to Lifeline Hospital. Deceased Sarika died in the said Lifeline Hospital during the treatment. On the basis of M.L.C. given by Dr. Sachin Bangar, the owner of the said Lifeline Multi Speciality Hospital, A.D.No.27 of 2017 came to be registered in the concerned Police Station. The learned senior counsel submits that the applicant has not even accompanied his wife either in the hospital of Dr. Rana viz. “Sanjeevani Clinic” nor in Lifeline Hospital owned by Dr. Sachin Bangar. The learned senior counsel submits that at the most, the said doctors are responsible for the negligence in causing the miscarriage of deceased Sarika and the applicant may not be responsible for the same. The learned senior counsel submits that even the offence punishable under Section 314 levelled against the applicant is not punishable with death or imprisonment for life. The said doctors / co-accused have been released on temporary bail. So far as the applicant is concerned, he is the only person behind the bars in connection with the present crime. The

learned senior counsel submits that in the given set of allegations, Section 314 of IPC is not attracted as against the applicant. Applicant is having fixed place of residence. There is no question of tampering with the prosecution evidence. The applicant may be released on bail.

4. The learned APP has strongly resisted the application on the ground that the case is serious in nature. The applicant and the deceased Sarika had three daughters out of their marital wedlock and deceased Sarika became pregnant fourth time. The applicant knowing it well, sent deceased Sarika along with his father co-accused Angat for causing her miscarriage. It is the part of the record that deceased Sarika was first taken to Sanjeevani Clinic for causing the miscarriage and while carrying the miscarriage, deceased Sarika became unconscious and her condition was found critical. The deceased Sarika was thereafter shifted to Lifeline Hospital, Aurangabad where she died during the treatment. The learned APP submits that on the basis of the M.L.C. received from Dr. Sachin Bangar of the Lifeline Hospital, A.D. was registered in the concerned Police Station. During the course of investigation, the statement of Dr. Sachin Bangar was recorded.

Co-accused Dr. Rana, other co-accused doctors and even the relatives of deceased Sarika have pressurised Dr. Sachin Bangar for not issuing the M.L.C., however, Dr. Sachin Bangar has informed to the concerned Police Station by issuing the M.L.C. The learned APP submits that during the course of investigation, the statement of Dr. Prashant Subhash Rindhe attached to Sanjeevani Clinic came to be recorded. It is clear from his statement that the deceased Sarika was taken to Sanjeevani Clinic for causing her miscarriage and during that process, the deceased Sarika became serious and her condition became critical due to profuse bleeding. The learned APP submits that the applicant and co-accused persons are responsible for the death of deceased Sarika. *Prima facie*, there is a strong case against the applicant. The applicant may not be released on bail.

5. I am shock to see the charge-sheet in connection with the present crime. Though in the year 2017, A.D.No.27 of 2017 was registered on the basis of the M.L.C. received from Dr. Sachin Bangar of Lifeline Hospital, Aurangabad, the Medical Officers of the Government Medical College and Hospital, Aurangabad, who have conducted the Post Mortem

on the dead body of deceased Sarika on 22.07.2017, reserved the opinion. I have carefully perused the Post Mortem Report. In Column No.21, I noticed one specific note pertaining to the organs of generation. On examination of the uterus, there was evidence of enlargement of cervical part of uterus and the blood oozing out from cervical opening. On opening uterine cavity, evidence of large blood clot of 150 cc in cervical region with thinning of wall with placenta present over left and anterior part, noticed. Even the hemorrhages in muscle wall of cervix, retro-placental bleeding, noticed, however, instead of giving the preliminary opinion about the cause of death, the opinion reserved till the receipt of histopathological examination. The pieces of organs preserved for histopathological examination. It is pertinent that after a gap of almost two years, on 12.04.2019, the concerned Medical Officers, who have conducted the Post Mortem Examination have given the opinion about the final cause of death as "Death due to post partum hemorrhage due to incomplete abortion". It is stated in the said final cause of death report that Histopathology Report was received on 06.02.2019. It is not clear as to why the Histopathology Report was received so

belatedly. It is also not clear that even after receipt of Histopathology Report in the month of February 2019, the opinion about the final cause of death was given on 12.04.2019. On receipt of the opinion about the final cause of death, API Dattatraya Botke has lodged the complaint on behalf of the State. Probably delay has been occurred due to involvement of doctors in the crime

6. I am shock to peruse the statement of Dr. Sachin Bangar, the owner of Lifeline Hospital. He was pressurised by the relatives of deceased Sarika and co-accused doctors as not to give the intimation to the police about the death of deceased Sarika, however, Dr. Sachin Bangar did not succumb to the said pressure and informed the police. After registration of the crime, the detail statement of Dr. Sachin Bangar was recorded. In his opinion, deceased Sarika was treated in some other hospital for causing her miscarriage and during that process, her condition became critical due to profuse bleeding. The said process of miscarriage remained incomplete and in consequence thereof, deceased Sarika became unconscious. During the course of investigation, the statement of Dr. Pankaj Dhakane was recorded. He was working in the ICU of Lifeline

Hospital, on 21.07.2017. According to him, deceased Sarika was brought in unconscious condition in the hospital, at about 7.30 p.m. and deceased Sarika was died, at about 8.10 p.m. He has further stated that co-accused doctors and the relatives of deceased Sarika pressurised Dr. Sachin Bangar for not issuing the M.L.C. and it was informed that co-accused doctors are trying to settle the matter with the relatives of deceased Sarika. During investigation, the statement of Mahadeo Kendre came to be recorded. He is the relative of the applicant. According to him, on 20.07.2017, deceased Sarika along with co-accused Angat had been to his house to visit the hospital. The deceased Sarika was carrying pregnancy and she wanted to visit the hospital with regard to her pregnancy on the next day. According to him, on 21.07.2017, at about 6.30 a.m., deceased Sarika along with co-accused Angat left their house by informing them that they are returning to their village. On that day, at about 7.30 p.m., witness Mahadeo has received a phone call from co-accused Angat, informing him thereby that deceased Sarika's condition was critical and she was admitted in Lifeline Hospital, Aurangabad. Immediately witness Mahadeo Kendre along with his wife went to the Lifeline

Hospital. Co-accused Angat informed to him that Sarika was carrying 2 / 3 months pregnancy and she was admitted in the hospital at Ranjgaon for causing her miscarriage, however, her condition became critical due to profuse bleeding during the said process of causing miscarriage and therefore, she was shifted to Lifeline Hospital, Aurangabad. Witness Mahadeo Kendre has also noticed the presence of the applicant, at that time, at Lifeline Hospital. According to this witness, deceased Sarika was having three daughters and co-accused doctors have given Rs.19,00,000/- for those three daughters for their marriage and education to the applicant and his father co-accused Angat, as a settlement. It appears that only on the basis of belated Histopathology Report, the API Dattatraya Botke has lodged the complaint on behalf of the State. It is a part of the record that neither the applicant nor his father co-accused Angat has lodged the complaint in the concerned Police Station. *Prima facie*, there is evidence that the applicant was intending to cause miscarriage as deceased Sarika became pregnant fourth time. It has been revealed during the course of investigation that deceased Sarika was subjected to sex determination test as advised by co-accused Dr. Suraj Rana.

The said sex determination test was carried out by co-accused Dr. Sunil Rajput. It thus appears that after the result of the sex determination test, deceased Sarika was subjected to miscarriage and during the said process of causing the miscarriage, deceased Sarika bleed profusely. In my considered opinion, the present applicant along with co-accused doctors are responsible for the death of deceased Sarika. Though the other co-accused doctors are released on temporary bail under the pretext of offering services to Covid-2019 patients, however, I am not inclined to release the applicant on bail. Hence, I proceed to pass the following order:

ORDER

The application is hereby rejected.

(V. K. JADHAV, J.)

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