

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

CRIMINAL APPLICATION (ABA) NO. 859 OF 2019

Dr. Vinaykumar S/o Vijaykumar Agrawal .Vs. State of Maharashtra, through
PSO, PS, Shegaon, Dist. Buldhana.

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

Court's or Judge's orders.

Mr. Anil Mardikar, Senior Advocate with Mr. N. P.
Singhania, Advocate for applicant.
Mr. M.K. Pathan, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 14, 2020.

Heard Mr. Anil Mardikar, learned Senior Counsel for applicant and Mr. M.K. Pathan, learned Additional Public Prosecutor for non applicant-State. Also, perused the reply filed on behalf of the prosecuting agency and the investigation papers.

Applicant is a Gynecologist and he is surgeon who attends the Government Hospital, Shegaon on call basis. He is apprehending his arrest in connection with Crime No.537/2019 registered with Police Station, Shegaon, District Buldhana for an offence punishable under Sections 354 and 354(A) (1)(i) of the Indian Penal Code.

First Information Report (FIR) is filed on 28.11.2019 in respect of incident occurred on 14.10.2019. Gist of the prosecution case is that the victim was admitted in the Government Hospital at Shegaon for her delivery and the applicant being a Gynecologist was called. However he took time to reach to the hospital and after reaching to the

hospital he used language which derogates a woman. It is also prosecution case that intentionally the victim was referred for further medical management at Akola belatedly.

The FIR does not speak anything as to why there occurred delay. It is always open for the prosecution that said delay can be explained during the trial also. However, in the present case the delay has its own impact inasmuch as it is the applicant who lodged the FIR against the brother-in-law of the victim on 02.11.2019 for the offence punishable under Sections 294, 186, 500, 504, 506 read with Section 34 of the Indian Penal Code. From the prosecution case it is clear that the brother-in-law against whom a crime is registered at the behest of the applicant was present along with the victim. Not only that, the compilation contains medical papers of the victim which show that on 14.10.2019 she was admitted at 08:05 p.m. and she was attended by applicant immediately at 08:35 p.m. Obviously said time was consumed by the applicant who is a doctor on call. Further, the medical papers would show that at 08:45 p.m. the husband of the victim endorsed that it was made known to him that looking to the complications in the delivery that may occur, victim was referred to Akola Hospital and she was taken accordingly. From the FIR it is clear that delivery at Akola was successful.

In that view of the matter, possibility of counter blast to the report lodged by the applicant is not completely ruled out and in that sense the delay in lodging the FIR against the applicant assumes importance.

The applicant was protected by this Court on 13.12.2019 on a condition that he shall attend the police station on the dates specified in the order and accordingly he has attended.

The applicant who is Gynecologist and has already joined the investigation and there is no apprehension as expressed that he may not be available to the course of justice. In my view, discretion can be exercised in favour of the applicant. Consequently, I pass the following order:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.537/2019 registered with Police Station, Shegaon, District Buldhana for an offence punishable under Sections 354 and 354(A) (1)(i) of the Indian Penal Code, applicant – Dr. Vinaykumar S/o Vijaykumar Agrawal be released on bail on he executing P.R. bond in the sum of ₹15,000/- with one solvent surety in the like amount.
- (iii) Applicant is directed to attend Police Station, Shegaon, District Buldhana as and when he is called by the investigating officer. However, for that investigating officer shall give clear cut two days written communication to him.

The application is disposed of.

JUDGE