

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1770 OF 2019
IN
BAIL APPLICATION NO. 2808 OF 2017**

Dr. Tejas Pradip Gandhi. ... Applicant

V/s.

State of Maharashtra. ... Respondents.

Ms. Manisha A. Devkar, advocate for applicant.

Ms. PP Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV.

DATE : APRIL 7, 2021.

PC.

1 This is an application seeking relaxation of conditions imposed upon the applicant vide order dated 31/1/2018 passed in Bail Application No. 2808 of 2017.

2 The applicant herein is a medical practitioner by profession. He was charge-sheeted for an offence punishable under section 201, 312, 315 read with section 34 of the Indian penal Code and under section 5 of Medical Termination of Pregnancy Act, 1971 in Crime No. 425 of 2017 registered at Akluj Police Station, Solapur Rural. The applicant was arrested on 25/8/2017. The applicant was

enlarged on bail by this Court vide order dated 31/1/2018.

3 In the course of hearing of Criminal Bail Application No. 2808 of 2017, it was informed to this Court that the investigating agency had informed the Medical Council of Maharashtra and Medical Council of India about the violation of the rules and licence issued in favour of the present applicant to practice medicine. A statement was made by the learned APP that on 10/1/2018 the investigating agency has communicated about filing of the charge-sheet against the applicant under the provisions of Medical Termination Act. There was sufficient material against the applicant. In the course of hearing of the application, in order to show his bonafide, the applicant has filed an affidavit/undertaking that he would not continue with the medical practice and would not run Siya Maternity Home till the conclusion of the trial. The affidavit was taken on record. It was observed by this Court that since the Medical Council has been communicated about filing of the charge-sheet and in view of the fact that the applicant had volunteered not to continue with the practice till the conclusion of the trial, the applicant was enlarged on bail.

4 The wife of the applicant namely, Dr. Priti Gandhi was also

an accused and was released on bail vide Order dated 31/1/2018. Similar affidavit was also filed on her behalf. By an order dated 7/1/2019, the conditions imposed upon accused Dr. Priti Gandhi was relaxed by taking into consideration several aspect and on humanitarian ground.

5 At the stage of granting bail, the nature of the offence and the fact that the accused had shown his bonafides by volunteering not to practice, was taken into consideration for limited purpose of enlargement on bail.

6 The fact that a charge-sheet has been filed against the accused is sufficient for the Maharashtra Medical Council to initiate an enquiry and adopt any measures as contemplated under section 22(1) of Maharashtra Medical Council Act, 1965, which reads as under :

22. Removal of names from the register. - (1) If a registered practitioner has been, after the inquiry held by the Council (or by the Executive Committee) in the prescribed manner, found guilty of any misconduct by the Council may-

(a) issue a letter of warning to such practitioner, or

(b) direct the name of such practitioner-

(i) to be removed from the register for such period as may be specified in the direction, or

(ii) to be removed from the register permanently.

Explanation. - For the purposes of this section, "misconduct" shall mean-

(i) the conviction of a registered practitioner by a criminal court for an offence which involves moral turpitude and which is cognizable within the meaning of [the Code of Criminal Procedure, 1973]; or

(ii) the conviction under the Army Act, 1950, of a registered practitioner subject to military law for an offence which is cognizable within the meaning of [the Code of Criminal Procedure, 1973]; or

(iii) any conduct which, in the opinion of the Council, is infamous in relation to the medical profession particularly under any Code of Ethics prescribed by the Council or by the Medical Council of India constituted under the Indian Medical Council Act, 1956, in this behalf."

7 Since the Medical Council was informed about filing of the charge-sheet vide letter dated 10/1/2018, the Medical Council must have initiated an enquiry as contemplated under section 22 of the Maharashtra Medical Council Act. It is within the powers of the Maharashtra Medical Council to suspend the licence or take any other appropriate action. It is also to be noted that in the present case, there has been no progress in the proceedings before Court and therefore, the condition that he shall not practice medical profession till conclusion of the trial would be harsh. Accused cannot be held guilty of an offence or deprived of his source of income and livelihood before

charges are proved against him and a conviction is recorded.

8 Hence, on humanitarian ground and taking into consideration the powers of the Maharashtra Medical Council, the applicant deserves to be discharged of his undertaking filed before this Court, as the said condition was imposed in order to see that the applicant does not indulge into similar activities upon being enlarged on bail. It is more than 3 years that the applicant has abided by the said undertaking. Hence, the application seeking relaxation of condition deserves to be allowed and consequently, the applicant is discharged from his undertaking/affidavit tendered in Criminal Bail Application No. 2808 of 2017.

9 The application is allowed and disposed of on the above terms.

(SMT. SADHANA S. JADHAV, J)