

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3763 OF 2021

Rani Manohar Kamble ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.I.M. Khairdi for the Applicant.

Mr.R.M. Pethe, APP for the Respondent –State.

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CORAM : C.V. BHADANG, J.

RESERVED ON : 7 JANUARY 2022

PRONOUNCED ON : 17 JANUARY 2022
(Through Video Conferencing)

P.C.

. By this Application, the Applicant (Accused No.1) is seeking bail. The Applicant along with 20 others has been charge-sheeted for the offence punishable under Section 312, 315, 419, 420 read with 34 of the Indian Penal Code and Section 33 and 33A of the Medical Practitioners Act, 1961, arising out of Crime No.406 of 2021 of Karveer Police Station, District-Kolapur.

2. The aforesaid offence was registered on the basis of the complaint lodged by Dr.Suvarna Patil, Medical Officer, Zilla

Parishad, Kolhapur who was holding the charge as a Health Officer, Panchyat Samiti, Karveer. According to the complaint on an information received from PI Sandeep Kolekar of Karveer Police Station, a raid was conducted on 18 July 2021 at 15.30 hours at the house of Mr.Satappa Khade (Accused No.5) where the Applicant and Mr.Mahesh Patil (Accused No.2) were operating an illegal Sonography Centre, for pre-natal sex determination. The Applicant and the Accused No.2 were professing to be Medical Practitioners without holding any qualification. During the raid the Accused No.2 was found having a sonography machine and a gel and the Accused Nos.3,4,6 and 7 were found conducting the sonography of one Monali A. Mali. The Accused Nos.8 to 21 (Excluding Accused No.13) are said to be working as agents who were contacting the villagers and bringing them for conduction of the pre natal diagnosis. The Accused Nos.13 was also said to be professing as a Medical Practitioner, without any qualification.

3. Insofar as the present Applicant is concerned, the prosecution case is that the Applicant at the time of the raid, managed to escape from the rear door. However, a purse of the Applicant containing a diary was found and seized from the spot. During the course of the investigation, statement of several witnesses, came to be recorded and the diary recovered from the spot has been sent for expert opinion.

4. A search was conducted at the house of the Applicant and she was arrested on 20 July 2021 and she is in custody since then.

5. I have heard the learned counsel for the Applicant and the learned Additional Public Prosecutor. Perused record.

6. It is submitted by the learned counsel for the Applicant that *prima facie* the offence under Section 312 and 315 may not be made out as there was no abortion done and it is not a case of infanticide. It is submitted that even the offence under section 419/420 will not be made out as this is not a case of cheating by personation. It is submitted that the Applicant was not found on the spot, at the time of the raid and merely on the basis of the recovery of a purse and diary the complicity of the Applicant in the offence cannot be *prima facie* established.

7. The learned Additional Public Prosecutor has submitted that offence is serious as the Applicant and the Accused No.2 were primarily engaged in the operation of the sonography centre, for conducting the pre-natal diagnosis and thereafter leading the ladies to commit abortion if the sex of the child was found to be a female child. It is submitted that there is a *prima facie* evidence to show the involvement of the present

Applicant, who along with Accused No.2 was found in possession of the Sonography machine.

8. I have considered the circumstances and the submissions made.

9. *Prima facie* it appears that on prior information the raid was conducted in the presence of the Medical Officer of the Zilla Parishad at the house of the Accused No.5 where the Accused No.2 was found present and in possession of the sonography machine. It appears from the record, that there was one lady who had managed to escape. However the purse with a diary is found on the spot which is stated to be of the Applicant. The diary was having particulars of the tests to be conducted. There are several witnesses who have named the present Applicant who was professing to be a Medical Practitioner and conducting the pre-natal diagnosis followed by the abortion of the foetus depending upon the outcome of such test.

10. According to the prosecution a code language was used to indicate the sex of the foetus, namely '7' for male child and '9' for a female child. *Prima facie* the contention that the offence under Section 312 and 315 of IPC is not made out, cannot be accepted as the statements of the witnesses show that the ladies who had undergone the sonography were prescribed

medicines to bring about abortion if it was a female child. Looking to the magnitude and seriousness of the offence, I do not find this is a case for grant of bail. The Criminal Application is accordingly rejected. The trial is expedited.

C.V. BHADANG, J.