

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1761 OF 2022

Dr. Omprakash Lalbaji Kingaonkar

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....

Mr. R. S. Deshmukh, Senior Advocate a/w Mr. Kunal Kale i/b Mr. Devang R. Deshmukh, Advocate for the applicant

Mr. A. A. Jagatkar, APP for respondent - State

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 31st JANUARY, 2023

ORDER :

1. The applicant apprehends his arrest in Crime No. 545 of 2022 registered with Ahmedpur Police Station, Ahmedpur, District – Latur for offence punishable under sections 3 and 5 of the Medical Termination of Pregnancy Act and under sections 315 and 316 of the Indian Penal Code.
2. Dattatray Kalidas Birajdar, Medical Superintendent, Rural Hospital, Ahmedpur lodged FIR on 25th November, 2022 alleging that during the period from 12th May, 2014 to 20th January, 2022, the applicant has committed illegal abortions, in violation of the provisions of the MTP Act and, therefore, he is liable to be

prosecuted in terms of the provisions of sections 3 (2) (a) (b) of the MTP Act. During the course of investigation, section 5 of the MTP Act and sections 315 and 316 of the Indian Penal Code were added in the crime.

3. Heard learned senior advocate for the applicant and the learned Additional Public Prosecutor for the State. Perused the papers of investigation.

4. It appears from the documents placed on record that, before filing of the FIR, there was exchange of correspondence between Civil Surgeon, Latur and the applicant. By letter dated 22nd March, 2022, Civil Surgeon, Latur had asked explanation from the applicant about the shortcomings at his MTP Center. The applicant gave detail reply on 23rd March, 2022 and explained that he has terminated the pregnancy in order to save the life of the patient and there is no complaint of the patient or her relatives.

5. Learned senior advocate for the applicant submits that the applicant is a reputed medical practitioner, who has retired from Government Service as Medical Superintendent on 30th September, 2012 and thereafter has started private medical practice.

6. Investigation papers reveal that prosecution case is based on documents. Investigation Officer has already seized all the relevant record and documents. The applicant was granted interim protection and he has co-operated in the investigation. Pre-trial custodial detention of the applicant, in the facts of the present case, is not necessary.

7. At this stage, learned Additional Public Prosecutor, on instructions from the Investigation Officer submits that case papers of the year 2014-15 and case papers of Case No. 77 of 2022 are yet not produced by the applicant. Learned Senior Advocate for the applicant, on instructions, makes a statement that the applicant will produce these documents before the Investigation Officer.

8. Considering the attending circumstances and the fact that the applicant is reputed medical practitioner and he has deep roots in the society and he would be available for trial, the application deserves to be allowed.

9. In the result, the application is allowed by confirming interim protection.

10. The applicant shall produce case papers of the year 2014-

15 and case paper of Case No. 77/2022 before the Investigation Officer, within one week from today. Till filing of the charge sheet, the applicant shall attend the concerned police station as and when called by the Investigation Officer. The applicant shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

drp/aba1761-22.doc