



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

30 BAIL APPLICATION NO. 1790 OF 2024

1. YOGESH KADUBA PADOL
2. NITIN RUSHIKESH JADHAV
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Kedar Balbhim R.
APP for Respondent-State : Mr. S. B. Pulkundwar.

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CORAM : S. G. MEHARE, J.
DATE : 21.10.2024

PER COURT :-

1. Heard the learned counsel for the applicants and learned APP for the respondent-State.
2. The applicants seek bail in Crime No.296 of 2024, registered with Bhokardan Police Station, District Jalna, for the offences punishable under Sections 91, 88, 61(2), 3(5) of the Bhartiya Nyaya Sanhita, Section 33(2) of the Maharashtra Medical Practitioner Act, Sections 3-A, 3-B, 23 and 25, (9) of the Pre-Conception and Pre-Natal Diagnostic Techniques Act, Sections 3 and 4 of the Medical Termination of Pregnancy Act and Sections 3 and 6 of the Bombay Nursing Home Act.
3. Applicant No.1 claims that he was the receptionist and applicant No.2 was sweeper in the hospital run by Dr. Dilip

Rajput. Applicant No.1 Yogesh being the receptionist was doing the formalities of receiving registration fee of Rs.100/- from the patients. Applicant No.2 was barely a sweeper, he had no concern with the alleged business. Dr. Dilip Rajput appointed them six and four months before the day of raid. On the day of raid, MPT was going on in the operation theater. One patient and her husband gave the statement to Authority, which does not disclose any role played by the applicant Yogesh. However, on the next day the incorrect statement was created against him that he called said witness Ganesh with his wife for testing the sex and received Rs.15,000/- from him. He would submit that these are the two contradictory statements, mere contacting the husband of the patients is not sufficient to believe that he was working as a agent for Dr. Dilip Rajput for illegal termination of pregnancy. Nothing is to be recovered from them. Hence, they may be granted bail.

4. Learned APP would submit that the statement of Ganesh (husband of the patient) is specific and corroborated with the CD report, that the applicant Yogesh had called him in the hospital of Dr. Rajput. He was playing an active role in the illegal termination of pregnancy. He was making calls to the patients. One of the co-employee also admitted before the

police that the applicants were assisting Dr. Rajput for illegal termination of pregnancy.

5. Applicant Yogesh has a positive case that he was receptionist and collecting Rs.100/- for registration from the patients. No allegations have been levelled against him that he was the agent of Dr. Rajput. The first statement of the victim and her husband namely Ganesh do not disclose an active role played by him. However, subsequent thereto the contradictory statement was recorded that Yogesh called him for testing the sex and termination of pregnancy. The veracity of such statements may be tested before the Trial Court. So far as the co-employee statement is concerned, it may not be accepted at this juncture that the applicants were playing an active role in the illegal termination of pregnancy. None of the witness says that they have charged separately for illegal termination of pregnancy. They are languishing in jail for sufficient time. The trial may take its time. Hence, their further detention would serve no purpose. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant No.1. **YOGESH KADUBA PADOL** and 2. **NITIN RUSHIKESH JADHAV** be released on bail on

furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of like amount each, on the following conditions :

- (a) The applicants should not tamper with the prosecution witnesses.
- (b) They should attend the trial on each and every effective date.
- (c) They should not contract the main accused Dr. Dilip Rajput till the trial is concluded.

(S. G. MEHARE, J.)

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vmk/-