



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

944 BAIL APPLICATION NO. 2046 OF 2024

Rahul Shivaji Pawar
VERSUS
The State Of Maharashtra

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Advocate for Applicant : Mr. More P. P.
APP for Respondents-State: Mr. A.A.A.Khan

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CORAM : ARUN R. PEDNEKER, J.

Dated : November 28, 2024.

PER COURT :-

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant is seeking bail as he was arrested in connection with FIR No.527/2024, dated 22/09/2024, registered with Udgir Rural Police Station, District Latur, for the offences punishable under sections 91, 92, 105, 3(5) of the Bhartiya Nyaya Sanhita, 2023, under Section 6 and 12 of the Bombay Nursing Act, 1949, under Section 5(2), 5(3), 5(4) of the Medical Termination of Pregnancy Act, 1971.
3. The learned Counsel for the applicant submits that the applicant was arrested on 24/09/2024. It is the prosecution's case that on 22/09/2024, they received information regarding a clinic conducting illegal termination of pregnancy. Acting on this information, a raid was conducted at a clinic, where a female patient was found lying on a bed,

with the termination process partially completed. It is alleged that the pregnancy involved a fetus of 12 weeks' gestation.

4. The prosecution claims that the applicant/accused had taken his wife to the clinic for the termination of the pregnancy. However, the learned Counsel for the applicant contends that the husband was not present at the hospital at the relevant time.

5. The learned Counsel for the applicant/accused further submits that, to the extent concerning the applicant, the investigation is complete. *Prima facie*, there is no material to suggest that any further recovery is to be made at the instance of the applicant.

6. Considering that the husband was not present at the relevant time and that there is no concrete evidence to prove that the termination was conducted at his insistence, *prima facie* material on record suggest that the case against the applicant is based solely on the wife's statement that the sex of the child was determined at the instance of the husband and on his directions termination of pregnancy was carried out. The substantial investigation has already been conducted and no further custody of the applicant is necessary, coupled with the fact that the trial may take considerable time to conclude, the circumstances do not justify further detention.

7. In view of the above, the application is allowed in the following terms :

a] The applicant shall be released on bail in connection with FIR No.527/2024, dated 22/09/2024, registered with Udgir Rural Police Station, District Latur, for the offences punishable under sections 91, 92, 105, 3(5) of the Bhartiya Nyaya Sanhita, 2023, under Section 6 and 12 of the Bombay Nursing Act, 1949, under Section 5(2), 5(3), 5(4) of the Medical Termination of Pregnancy Act, 1971, on furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

c] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.

d] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

e] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

8. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

9. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.