

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 352 OF 2024

Prakash Brahmadev Bhosale @ Sonu ... Applicant
Bhosale

V/s.

The State of Maharashtra ... Respondent

Mr. Manoj S. Mohite, Senior Counsel I.by Mr. Sachin Thorat, for the applicant.

Mr. Pankaj Deokar, APP, for the Respondent/State.

CORAM : ANIL S. KILOR, J.

DATE : 21ST JUNE, 2024.

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PC:

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.586 of 2023, registered with Barshi City Police Station, District: Solapur (Rural) for the offences punishable under Sections 313, 315, 316 and 34 of the Indian Penal Code, 1860 (for short, 'IPC') and Sections 4,5(2) (3)(4) and 6(c) of Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (for short, 'PCPNDT') and under sections 2(d), 4(b) and 5(2) of Medical Termination of Pregnancy Act, 1971.

3. The allegations in the present matter are of involvement of the accused in illegal termination of pregnancy. As far as the present applicant is concerned, he allegedly worked as an agent and helped the other co-accused persons in the alleged offence.

4. Shri Mohite, the learned senior counsel for the applicant submits that nothing is recovered from the applicant. It is submitted that the charge-sheet has been filed and this Court has released two accused persons in the present offence. It is submitted that at the most considering the allegations made against the applicant, the offence which would attract for the same maximum punishment is three years. He further submits that the applicant is in jail from last about one year and considering the maximum punishment and the period of incarceration of the applicant, the applicant may be released on bail.

5. On the other hand, the learned APP strongly opposed the application and submits that the offence is very serious. It is submitted that there are statements of the witnesses who support the case of the prosecution. It is submitted that there is sufficient evidence to show that the applicant used to carry out the tests and therefore, considering the involvement of the applicant in the alleged offence, it is prayed that this Court may not grant bail to the applicant.

6. Having considered the allegations made against the applicant and the material collected by the IO during the investigation, it is evident that the allegations made against the applicant is that he was working as an agent and used to carry out gender testing of fetus. However, the main allegation relating to termination of female fetus is

against the accused nos. 1, 2 and 3. Whereas, the applicant is accused no. 5.

7. This Court has granted bail to accused Nos. 8 and 9. It is further evident that the applicant is in jail from last one year, there are no antecedents against the applicant. Furthermore, nothing is recovered from the applicant in the alleged offence.

8. In the above referred backdrop, I am of the opinion that as the investigation is completed and further custody of the applicant is no more required. Accordingly, I pass the following order:

ORDER

- i) Criminal application is allowed;
- ii) It is directed that the applicant shall be released on bail in Crime No.586 of 2023, registered with Barshi City Police Station, District: Solapur (Rural) for the offences punishable under Sections 313, 315, 316 and 34 of the Indian Penal Code, 1860 (for short, 'IPC') and Sections 4,5(2)(3)(4) and 6(c) of Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (for short, 'PCPNDT') and under sections 2(d), 4(b) and 5(2) of Medical Termination of Pregnancy Act, 1971, on furnishing PR.Bond of Rupees Twenty-Five Thousand with one solvent surety in the like amount;

- iii) The applicant shall not enter into the territorial jurisdiction of Barshi City till the conclusion of the trial;
- iv) The applicant shall provide his address and name of the nearby police station to the IO, which he shall attend the said Police Station on 1st and 16th day of every month between 12.00noon to 2.00 p.m., till the conclusion of the trial except on the date of trial;
- v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- vi) Liberty is granted to the State to apply for cancellation of bail in case of any breach of condition if the applicant commenced similar offence;
- vii) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

9. The Criminal Application is **disposed of** accordingly.

(ANIL S. KILOR, J)