

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 811 OF 2024

Sunita Santosh Bhosale

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Arun D. Mishra i/b. Arpita Mishra for Applicant.

Ms. Rajeshree V. Newton, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 27 MARCH 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.813 of 2023 registered at Wai Police Station, District Satara, on 21.12.2023, under section 312 r/w. 34 of the Indian Penal Code and under sections 4 and 5 of the Medical Termination of Pregnancy Act, 1971.

2. Heard Mr. Arun Mishra, learned counsel for the applicant and Ms. Rajeshree Newton, learned APP for the State.

3. The F.I.R. is lodged by one Dr. Yuvraj Karpe. He has stated that, he was making enquiry pursuant to a news paper

article dated 12.12.2023. He was making that enquiry under the Pre-conception and Pre-Natal Diagnostic Techniques Act, 1994. There was suspicion regarding the present applicant, who had two daughters and she was pregnant for the third time. During enquiry, she had informed that on 07.12.2023 she had suffered abortion because she had lifted a bucket. In spite of that, relying on the statements of one Abhijit and one Satish, the first informant was convinced that the applicant had undergone the test to determine sex of the foetus and then had undergone the procedure for medical termination of pregnancy. At that time, she was about 17 weeks pregnant. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the F.I.R. itself is lodged based on the surmises and conjectures. There is no definite material available with the first informant before lodging of the F.I.R. Even otherwise, he submitted that, Section 312 of the I.P.C. is bailable and the applicant cannot be made as an accused under the other sections applied by the prosecuting agency. In spite of that, the applicant is apprehending her arrest in this case.

5. Learned APP, on the other hand, submitted that the applicant herself had given her statement on 24.12.2023, in which, she has explained that she had undergone such test and, thereafter, she had taken some treatment from one doctor causing abortion by using some tablets. She had named one Dr. Kale who had taken Rs.16000/- from her.

6. I have considered these submissions. Taking the prosecution case as it is, as submitted by learned counsel for the applicant, Section 312 of the I.P.C. is a bailable offence. The other offences are not made out against the applicant. Considering the totality of the circumstances, it can be seen that the applicant herself has gone through the traumatic experience because of her family's pressure. Her custodial interrogation would be unfair. It is not necessary. She can be protected U/s.438 of the Cr.p.c.

7. Hence, the following order :

ORDER

- i) In the event of her arrest in connection with C.R.No.813 of 2023 registered at Wai Police

Station, District Satara, the applicant is directed to be released on bail on her executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- ii) The Applicant shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)