



ORDER BELOW EXH.19
RCC No.196/2024, C. R. No. 34/2024, Police Station, Waluj,
Passed on 23.07.2024

01] This is an application under section 437 of the Code of Criminal Procedure filed by accused Nos. 4 namely Sunil Lahurao Meghare and accused No.5 Ganesh Sonaji Savandkar to release them on bail.

02] Perused the bail application, charge sheet and other documents on record. Accused are alleged to be committed an offence punishable under section 23, 25, 3-A of PCPNDT Act and Section 5 of MTP Act. The offence is cognizable, non bailable and triable by this court. Called say of Ld. A.P.P.

03] Heard the learned advocate for accused and the learned APP for the State.

04] Considered the submission and documents on the record. Before proceeding to comment on merits of the application, it is necessary to mention that, mere filing of charge-sheet does not amounts to change of circumstances. It cannot be only ground to grant a bail.

05] Coming to the merits of the application, it is true that, the present offence is not punishable with death, life imprisonment or imprisonment upto 10 years. But only quantum of punishment cannot be a ground for granting bail. While adjudicating a bail application the Court has to consider peculiar factual matrix and circumstances existing in the case. The court has to consider the gravity of crime, the nature of evidence, position and status of accused with reference to the victim and witnesses, impact on society, the likelihood of the accused fleeing away from the justice, repeating of offence, the possibility of his tampering with the witnesses, obstructing the course of justice etc. Especially, when charge-sheet is filed, whether there is any sufficient substance against the accused to proceed the case can also be the ground. The Court is expected to apply its mind to ascertain whether the accusations against the accused are prima facie true or not. There should be reasonable grounds for believing that he has been guilty of offence and it never means evidence within the ambit of section 437 of the Cr.P.C.

06] In the present case, the present accused in furtherance of common intention of all accused has committed an offence punishable under PCPNDT and MTP Act. The role of present accused are specifically elaborated in the various case diaries and charge-sheet. Accused Nos. 4 and 5 are found in the possession of medicines and injections which are used for sex determination and aborting sex fetus. Present accused have provided these medicines and injections to accused Nos. 1 to 3 for aborting. The accused No. 1 has given statement mentioning the name of present accused. There is no explanation about the contrary facts existing against the present accused. Apparently there appears to be nexus of present accused in the commission of crime. So also it is to be always necessary to be considered that present accused have not committed the traditional offence. The nature of offence is special, having impact on entire society. The recent position of the society reveals that it is syndicate nature of crime committed by well organized and structured group of people. The problem of pre-natal sex determination leading to female foeticide has shaken the entire male and female ratio of the society. Therefore, it cannot be equated with the other natures of crime. Consequently, on perusal of charge-sheet, statements of witnesses and recoveries which draws that there are reasonable grounds against the present accused. It would be too early to comment on the merits of the evidence available on record without trial. Moreover, as it is already discussed above, only quantum of punishment cannot be a ground to grant bail. The other factors are to be equally considered. Therefore, considering the peculiar facts and circumstances of the case, I declined to allow this application. Hence, I pass the following order -

ORDER

The bail application of accused Nos.4 and 5 is rejected.

Date : 23.07.2024

(S. S. Agrawal)
Judicial Magistrate F.C., Gangapur,
Tq. Gangapur, Dist. Aurangabad.

CERTIFICATE

I affirm that the contents of this P.D.F. File Judgment/ Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	Sanjaykumar V. Shinde
Name of the Court	S.S.Agrawal, Civil Judge Jr. Dn. & J.M.F.C., Gangapur
Judgment signed by the P.O.on	23.07.2024
Judgment uploaded on	26.07.2024