

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM M-24622 of 2015****Date of decision : 02.09.2015**

Dr. Anant Ram

....Petitioner

V/s

State of Haryana

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Abhishek Sethi, Advocate for the petitioner.

Mr. Gaurav Dhir, DAG Haryana.

RAJAN GUPTA J.

Petitioner seeks concession of pre-arrest bail in a case registered against him under sections 3, 3A, 5, 6 and 23 of PNDT Act, 1994 and sections 315, 420, 417/120B IPC at police station City Hisar, District Hisar.

Learned counsel for the petitioner submits that there is nothing on record to connect the petitioner with the crime. Petitioner is a reputed doctor of the city and his custodial interrogation is not required. He has relied upon the judgment of this court in *CRM M-10163 of 2014* titled as *Dr. Tejinder Pal Singh Multani vs. State of Punjab and anr.* to contend that only appropriate authority can take action under the Act. He does not dispute power of the investigating agency to register an FIR. According to him, thereafter only a complaint can be filed before the appropriate authority.

Learned State counsel has vehemently opposed the plea. According to him, petitioner was called by the investigating

agency number of times but he did not disclose anything. During investigation, statement of another victim namely Deepika Sharma was recorded under section 164 Cr.P.C. who stated that ₹15,000/- were taken for her check up by co-accused Rajesh. Thereafter, she was taken to AMC hospital on 10.06.2015 where her fetus was aborted. He has relied upon judgment of this court in *CRM 33595-M of 2008* titled as *Dr. Arvind Pal Singh Gambhir vs. State of Punjab & anr.* to contend that section 27 of the Act permits registration of FIR and police has every right to investigate the matter thereafter. Referring to reply filed by way of affidavit of Jaipal Singh, Dy. Superintendent of Police, City Hisar, he submits that custodial interrogation of the petitioner is required to unearth the entire racket of determination of sex of the fetus and abortion thereafter.

I have heard learned counsel for the parties.

It appears that information was received by the police regarding certain illegal abortions being carried out in Hisar. A team of doctors was thereafter constituted. The team took the help of the police and a decoy customer namely Seema Devi, who is 3-4 months pregnant was sent to the hospital. A raid was conducted on the premises in question. Co-accused Jaibir and Dharminder were arrested at the spot. During investigation, it was found that Jaibir and Dharminder acted in connivance with Parveen who was working in AMC hospital, Hisar owned by Dr. Anant Ram (petitioner herein). Accused Parveen was arrested. She disclosed that another lady Deepika Sharma had undergone abortion at AMC hospital. Resultantly, statement of Deepika Sharma was recorded under section 164 Cr.P.C. She disclosed that ₹15,000/- were taken from

her for conducting her abortion as she was told that she had a female fetus in the womb. She clearly stated that abortion was done by Dr. Anant Ram (petitioner herein). Details of investigation have been given in the affidavit dated 10.08.2015 filed by the investigating agency.

Keeping in view nature of allegations, I am of the considered view that no case for grant of pre-arrest bail is made out. Judgment in *Dr. Tejinder Pal Singh Multani's* case (supra) cannot help the petitioner as same was petition for quashing of FIR. In the said case, court had dealt with provisions of section 28 of the Act. There can be no dispute with the proposition that section 27 of the Act permits registration of FIR by the police as by virtue of same every offence under the Act has been made cognizable and non-bailable. In *Dr. Arvind Pal Singh Gambhir's* case (supra) it has been clearly held that under section 27 of the Act, investigation of an offence is permissible. In the eventuality cognizance is taken by the police in terms of section 27 of the Act, normal procedure of investigation would follow. However, investigating agency would thereafter comply with section 28 of the Act and submit a complaint in terms thereof. It is evident that alleged racket prevalent in the State for using pre-natal diagnostic techniques and illegal abortions needs to be unearthed. Thus, there is no ground made out for grant of concession of anticipatory bail to the petitioner. Dismissed.

September 02, 2015

Ajay

(RAJAN GUPTA)
JUDGE