

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-25130-2017

Date of decision: 30.10.2017

Bal Krishan Fauzdar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Jangvir Singh Hooda, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner Bal Krishan, an accused in FIR No.431 dated 29.6.2017 for offences under Sections 336, 420 IPC and Sections 15(2)(3) of Indian Medical Council Act, registered with Police Station Hodal, District Palwal.

Briefly stated, the facts of the case as per prosecution version are that Dr.J.P. Parshad (Nodal Officer), PNDT Palwal had addressed a written complaint to SHO, Police Station Hodal on 27.6.2017 contending therein that on the said day a team of Health Department headed by Dr.J.P.Parshad having been accompanied by a police Constable, on a secret information had raided clinic of Dr.Bal Krishan, an unauthorized doctor, during the course of which, he was found to be present there; that

he was asked to show the documents authorizing him to practice medicine; that Bal Krishan showed document of Hindi Sahitya Samellan, Allahabad; that he was found to be not competent to practice in allopathy, thus he is a bogus doctor; that the team prepared a spot memo of three pages; that after that 10 type of medicines and 5 type of instruments used for medical practice were sealed in a box, in that way Bal Krishan is a bogus doctor and is running his clinic in an illegal manner, therefore, it was prayed that an FIR under Sections 336/420 IPC and Sections 15(2) and 15(3) of IMC Act was registered against him. It was accordingly so done vide FIR No.431 dated 29.6.2017 .

On registration of formal FIR, apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application. His such application had been assigned to learned Additional Sessions Judge, Palwal, who vide order dated 5.7.2007 dismissed the same, as such the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has contended that son of petitioner namely Jagat Singh is an MBBS doctor having registration No.78844 and he runs the clinic in the name and style of Bal Kishan Clinic, near Arya Samaj, Hodal; that at the time of the raid conducted by Health Department team, son of petitioner had gone home for the lunch

and petitioner was sitting there at the clinic just to take care of the belongings; that he was not practising medicine and that petitioner has been wrongly involved in this case.

On the other hand, learned State counsel pointing out to the reply to the bail petition has contended that after lodging the FIR, the police had investigated the matter and during the course of investigation, it was found that though son of the petitioner is an MBBS doctor but from the call details of the mobile phone of such son of petitioner, it was found that during day time, he used to stay either at Faridabad at Sector 15-16 or Dwarka at Delhi and on the day of raid at the clinic of the petitioner, Dr. Jagat Singh was at Sector-16, Faridabad. Learned State counsel has placed on file copies of call details. It is further contended that in terms of the interim order granted to him by this Court, the petitioner had joined the investigation but he did not co-operate with the investigating agency; that the original certificate given by the petitioner was got verified from District Ayurved Officer, Palwal, who stated that this certificate is not recognized/authentic to give treatment to the people and that petitioner without medical qualifications and authorization has been practicing medicine playing with lives of the people, therefore keeping in view the allegations, he requested that the request of the petitioner for pre-arrest bail be declined.

After hearing the rival contentions, I find that pre-arrest bail is relief, which is not to be granted in routine but in exceptional circumstances. A person approaching the Court for such relief must come with clean hands disclosing all the facts without trying to conceal

anything. In this case the version now put up that the clinic used to be run by Dr.Jagat Singh son of the petitioner and at the time of raid, petitioner was sitting in the clinic just to take care of the articles lying therein was not explained to the team of Health Department when it had conducted the raid, rather the petitioner had shown some document, which was not found to be a valid one authorizing him to practice medicine on allopathy side. Thus, it comes out that the petitioner without having proper medical degree in allopathy medicine had been practicing the same endangering the lives of the people coming to him for treatment. The petitioner has not placed on file any document to show that his son Dr.Jagat Singh has in fact been practicing in the clinic in question at Hodal. His custodial interrogation appears to be necessary for complete and effective investigation. It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

30.10.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No