

CRM-M-18193-2018 &
CRM-M-19353-2018

-1-

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

(1) **CRM-M-18193-2018**

Som Nath

...Petitioner

Versus

State of Haryana

...Respondent

(2) **CRM-M-19353-2018**

Satpal

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision:31.5.2018

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

Present: Ms.Promila Nain, Advocate
for the petitioner in **CRM-M-18193-2018**.

Mr.V.B. Aggarwal, Advocate
for the petitioner in **CRM-M-19353-2018**.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

By this order, I intend to dispose of two petitions i.e. **CRM-M-18193-2018** filed by petitioner Som Nath and **CRM-M-19353-2018** filed by petitioner Satpal, who are accused in FIR No. 423 dated 7.5.2017, under Sections 2, 3, 3A, 4, 5, 6, 23 and Rules 3(3), 4, 9, 10, 18 (I to XI) P.C. & PNDT Act and Sections 420, 120-B IPC, registered at Police Station Thanesar for grant of regular bail.

Briefly stated, facts of the case as per prosecution story are that Civil Surgeon, Kurukshetra – cum – Authorized Officer had received a secret information that Jasbir Kaur wife of Jeet Singh of Labana community, resident of village Barara, District Ambala along with Sudesh Devi wife of late Piyara Singh, resident of Gaushala Bazaar, House No.5, Ward No.2 Kurukshetra were involved in sex determination of foetus. Accordingly, it was decided to lay a trap. A team was constituted, which comprised Smt.Nirmala Devi as a decoy, who was given Rs.30,000/- and was sent to contact Jasbir Kaur for determination of sex of foetus on 5.5.2017 at about 3:00 p.m. at Old Bus Stand Kurukshetra. Jasbir Kaur asked Nirmala Devi to wait for two hours. Thereafter, she took Nirmala Devi to Gurudwara 6th Patshahi and both of them rest there for some time. However, Jasbir Kaur told Nirmala Devi that sex determination could not be got done on that day and she should come to her on the next day at about 5:00 p.m. in front of Gurudwara 6th Patshahi. Accordingly, Nirmala Devi reached at the fixed place on 6.5.2017 and meet Jasbir Kaur in the park of Sanehit Srover and gave Rs.30,000/- to Jasbir Kaur. Jasbir Kaur made Nirmala Devi wait in the park for three hours and thereafter she took her through Auto rickshaw to Jindal Park where they met another woman namely Sudesh Devi. Sudesh Devi took Nirmala Devi on her scooty to her house situated at Gaushala Bazaar, Thanesar, where Sudesh Devi with the help of two doctors got determination of sex of foetus of Nirmala Devi by an ultrasound machine and the doctors told Nirmala Devi that foetus was of a male baby. Sex of foetus of three other women were also determined. Sudesh Devi came to Jindal Park at 10:00 p.m. for

dropping Nirmala Devi when with the help of Lady Constable, Sudesh Devi was arrested. Thereafter, Jasbir Kaur was also arrested. Recoveries were effected from those two women agents. Petitioner Satpal was arrested on 11.2.2018 on the basis of disclosure statement of co-accused Manoj Kumar. Nirmala Devi had identified accused Som Nath and Manoj Kumar as the persons, who had conducted the sex determination test. Petitioner Som Nath is in custody w.e.f. 12.2.2018. The petitioners had moved applications for regular bail in the Court of Sessions, however, the same were dismissed by learned Additional Sessions Judge, Kurukshetra, as such they have approached this Court by way of filing these petitions asking for the similar relief, notice of which has been issued to the 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 petitioners have contended that challan against the accused has been filed in the Court and a complaint has also been filed. Both the cases are to be tried together since they relate to same occurrence and the cases are at initial stage, as per report received from Chief Judicial Magistrate, Kurukshetra.

Learned counsel for the petitioner Satpal has argued that petitioner Satpal was arrested on 11.2.2018 on the basis of disclosure statement of co-accused Manoj Kumar i.e. after about 9 months of registration of the FIR; that this petitioner is not named in the FIR; that except the disclosure statement of co-accused Manoj Kumar, there is no evidence against him and the ultrasound machine allegedly used has not

been recovered from him.

Learned counsel representing petitioner Som Nath has argued that he is behind bars since 12.2.2018 after about 7 months of the registration of FIR; that neither he named in the FIR nor apprehended on the spot; that he has nothing to do with the sex determination test; that the co-accused namely Jasbir Kaur and Sudesh Devi have already been released on bail by learned Additional Sessions Judge, Kurukshetra vide orders dated 7.6.2017 and 31.5.2017, respectively; that further detention of the petitioner shall not served any purpose.

Whereas, the requests are being opposed by the State counsel, who argued that as per the case of prosecution, the ultrasound machine used for the test has since been destroyed by the accused; that the accused had committed a heinous crime and do not deserve to be released on bail.

After hearing the rival contentions of learned counsel for the parties, I find that though challan against the accused has been filed but the trial is at initial stage, the conclusion of which is likely to take some time. The guilt of the accused shall be determined during the trial. The main accused, namely, Jasbir Kaur and Sudesh Devi are said to have been granted bail by learned Additional Sessions Judge, Kurukshetra, copies of those orders are available on record.

Therefore, without expressing any opinion on the merits of the case, I find it proper and appropriate if concession of regular bail is granted to the petitioners.

Accordingly, the petitions are allowed. The petitioners namely Som Nath and Satpal are ordered to be released on bail during the

pendency of the trial, subject to their furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Kurukshetra, on following conditions:

- (i) they shall appear in the Court on each and every date of hearing;
- (ii) they shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) they shall not leave India without prior permission of the Court.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioners do not abscond and interfere in the trial.

The petitioners-accused are also directed to surrender their passports if they have got ones otherwise to furnish affidavits in that regard. In case the petitioners violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

The petitions stand allowed accordingly.

31.5.2018
Brij

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No