

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

CRM-M No. 35216 of 2018

Date of decision : 04.12.2018

Feroz Khan

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Ashwani Nagra, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

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DAYA CHAUDHARY, J. (Oral)

Petitioner Feroz Khan has approached this Court by way of filing the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.255 dated 08.07.2018 under Sections 420, 120-B of the Indian Penal Code, 1860, Sections 4(4), 5(2), 23 of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, Sections 15(2), 15(3) of the Indian Medical Council Act, 1956 and Sections 18 A/28, 18C/27 of the Drugs and Cosmetics Act, 1940, registered at Police Station – Naraingarh, Distt. Ambala, during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has been implicated on the basis of vague and false allegations. As per the allegations in the FIR, the petitioner has been shown to be the proprietor of

the shop where pre-natal sex determination test was done by co-accused Sanjay and the petitioner was present in the shop. It is also the allegation that the petitioner could not produce any valid degree/diploma or licence. Learned counsel further submits that as per the allegations, it has been shown that a white colour machine, make as Ozomax TM Model No. BL-148DH6 (made in India) was used after applying jelly and the same was recovered from the possession of co-accused Sanjay. Learned counsel points out that said white colour machine is only being used for massage. The details of the machine can be searched on Amazon and Google. Learned counsel also submits that it shows the false plantation of the case upon the petitioner as the said machine cannot be used for carrying out pre-natal sex determination. The petitioner is in custody since 08.07.2018 and even the charges have not been framed.

Learned State counsel has not disputed the period of custody undergone by the petitioner, however, he submits that he wants to verify the details with regard to use of the machine recovered in the present case.

Heard arguments of learned counsel for the parties. I have also perused the contents of the FIR and other documents available on the file.

By considering the submissions made by learned counsel for the petitioner and also keeping in view the facts that even the charges have not been framed so far and trial may take some time to conclude, no purpose would be served by keeping the petitioner in custody. Moreover, the alleged recovery of the machine, which is alleged to be recovered from the petitioner is not for the purpose which has been reflected in the FIR. The

allegations appear to be false as the machine which has been said to be recovered is not for conducting such tests but is being used for massage purpose.

Accordingly, this petition is allowed and the petitioner is directed to be released on regular bail on furnishing bail/surety bonds to the satisfaction of the trial Court.

However, in case the make and use of the machine is found to be otherwise, the State is at liberty to move an application for cancellation of bail.

04.12.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No