

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6348 of 2019

DATE OF DECISION: FEBRUARY 15, 2019

MOHIT PANDEY

...PETITIONER

VERSUS

STATE OF HARYANA

.RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. LAKSHMAN SHARMA, ADVOCATE
FOR THE PETITIONER.

MR. SUKHDEEP PARMAR, DAG, HARYANA.

MANOJ BAJAJ, J.

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.1302 dated 30.12.2018 under Sections 3, 4, and 5 of Medical Termination of Pregnancy Act, 1971, Section 18-A, 18-B, 18(C), 27(b)(2)(i) and 28 of Drugs and Cosmetics Act, 1940, Section 4, 5(1)(a), 6(a) and 23 of the Preconception and Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse), Act 1994 and Sections 114, 315, 511, 201, 120-B of IPC, registered at Police Station Shivaji Nagar, Gurugram, during pendency of the trial. The petitioner is in custody since 5.1.2019.

The FIR was registered on the basis of raid conducted by the team headed by Mr. Ramesh Dutt, Director, Speed, Search & Security Private Limited who is having MoU with Government of Punjab to curb the menace of sex determination. A secret information was received that Mobile Phone

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No.9667764815 belongs to an agent who is engaged in sex determination of the foetus conducted by way of ultrasound of the patients of Punjab and Haryana. Acting upon this information, a decoy patient Sunita was set up and the said person was contacted and he asked for `35,000/- for detection of sex of the foetus. In co-ordination with the Gurugram Police, a joint operation was held and upon reaching Gurugram, Mr. Ramesh Dutt alongwith the decoy patient met said person Satish at bus stand at 3.00 a.m. on 30.12.2018. Said person Satish boarded the car in which Mr. Ramesh Dutt and the decoy patient were travelling. The said car was followed by Gurugram team and Punjab team jointly. The car of decoy patient moved towards Manesar and upon reaching there, one person came and talked to Satish. Then a Black Maruti Ertiga car came at Rajiv Chowk having registration No.HR26J DJ 0358,. The person driving that car had a word with Satish and in the meantime, two more persons came to the spot and then asked Mr. Ramesh Dut to make decoy patient to sit in the Black Maruti Ertiga. Those four persons divided the money at Rajiv Chowk and one of them moved back. When three persons started Black Maruti Ertiga with decoy patient, the team stopped them and arrested all the three persons. FIR was registered.

It was disclosed by Mr. Ramesh Dutt that `35,000/- was taken by Satish from Sunita and were distributed amongst four of them. The Drug Controller, Gurugram, namely, Mr. Amandeep Chauhan recognized that two of the arrested persons were earlier accused in similar FIR registered on 26.6.2018, and were, namely, Satish and Devender. A sum of `20,000/- was

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recovered from Satish and `10,000/- was recovered from Devender. The currency notes were the same which were handed over to Mr. Ramesh Dutt for the sting operation. The third person disclosed his name as Nitin S/o Gopal Krishan. It was disclosed by Satish that father of Nitin, Dr. Gopal Krishan had taken the amount of `5000/- as his own share for sex determination test. Nitin had disclosed that he was asked by his father to take the pregnant lady to M/s Satyawar Hospital, Shahjapur, Uttar Pradesh. According to the statement made by Nitin, he earlier also visited and got sex determination test done at M/s Satyawar Hospital, Shahjapur.

Learned counsel for the petitioner has contended that the petitioner has been arrested on the basis of the confessional statement given by Gopal Krishan wherein it is described that the petitioner is a Compounder of M/s Satyawar Hospital, Shahjapur. Said hospital was raided on 4.1.2019 on the statement of Gopal Krishan and the ultrasound machine was also taken into possession. Learned counsel for the petitioner has further contended that the petitioner is in judicial custody and he is no more required in the investigation. Even otherwise, as per the prosecution case Dr. Satyaparkash who used to determine the sex of the foetus is yet to be arrested. It is further pointed out that as far as the present raid and FIR is concerned, nothing has happened at Shahjapur and it will be seriously debatable as to whether any offence qua the petitioner is made out.

On the other hand, learned State counsel has opposed the application. However, it is not in dispute that the petitioner is indicted on the basis of the statement made by Dr. Gopal Krishan. It is further argued that in the

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absence of Doctor of M/s Satyaparkash Hospital, the petitioner used to determine the sex of the foetus. It is not in dispute that the petitioner is not a qualified Doctor and no test was conducted by the petitioner in respect of the raid in question.

Considering the above background, the role of the petitioner and the material on the basis of which he has been indicted, further custody of the petitioner is not justified. Therefore, without commenting anything upon merits of the case, the petitioner, namely, Mohit Pandey is admitted to regular bail subject to his furnishing the requisite bail bonds and surety bonds to the satisfaction of the trial Court.

The petition is allowed.

February 15, 2019

Gulati

(MANOJ BAJAJ)

JUDGE

Whether Reportable: Yes/No

Whether Speaking/Reasoned: Yes/No