

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

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CRM-M-11146-2019 (O & M)
Date of Decision:26.03.2019

Nitin and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Lekh Raj Nandal, Advocate
for the petitioners.

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 petitioners 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)(ii) and 28 of Drugs and Cosmetics Act, 1940, Section 4, 5(1)(a), 6(a) and 23 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse), Act 1994 and Sections 114, 315, 511, 201 and 120-B of IPC, registered at Police Station Shivaji Nagar, Gurugram, during pendency of the trial. The petitioner are in custody since 30.12.2018.

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 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 Dutt 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 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.

Learned counsel for the petitioners has contended that petitioners were not in any manner involved in the present case as no amount whatsoever has been recovered by the team from them. There is only a disclosure statement of Satish that petitioner No.2-Gopal has taken the amount as his own share. It is further contended that petitioner No.2 was not found at the spot nor stuck any deal and as far as petitioner No.1 is concerned, he never entered into any deal. He further contended that the co-accused of the petitioners namely Mohit Pandey and Shakuntla Devi have already been granted the concession of regular bail by this Court on 15.02.2019 passed in CRM-M-6348-2019 and 26.02.2019 passed in CRM-M-3900-2019 respectively. It is further pointed out that as far as the present raid and FIR are concerned, nothing has happened at Shahjanpur and it will be seriously debatable as to whether any offence qua the petitioners is made out. It is further contended that the trial will take a sufficient time in its conclusion and no useful purpose would be served by putting the petitioners behind the bar.

On the other hand, learned State counsel has opposed the bail application on the ground that FIR has been registered after conducting the raid by the State agency from the State of Punjab regarding racket of pre-natal sex determination running at Gurugram. Investigation is still pending and if the petitioners are released on bail, they can exert pressure upon the

witnesses. However, it is not in dispute that the petitioner No.2 was not found at the spot and no amount has been recovered from the petitioners.

Considering the above background, the role of the petitioners and the material on the basis of which they have been indicted, further custody of the petitioners are not justifiable. Therefore, without commenting anything upon merits of the case, the petitioners are admitted to regular bail subject to their furnishing the requisite bail bonds and surety bonds to the satisfaction of the trial Court Gurugram.

The petition is allowed.

26.03.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No