

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

CRM-M-7087-2020 (O&M)

Date of Decision:- 20.2.2020

Naresh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Pardeep Kumar Rapria, Advocate for the petitioner.

Ms. Aditi Girdhar, Assistant Advocate General, Haryana.

GURVINDER SINGH GILL, J.

1. The petitioner Naresh seeks grant of anticipatory bail in respect of a case registered against him vide FIR No. 431 dated 5.11.2019 under Sections 15(2), 15(3) of Indian Medical Council Act, 1956, Sections 3, 4, 5 of Medical Termination of Pregnancy Act, 1971, Section 27-A of Drugs and Cosmetics Act, 1940, Section 420 IPC and Section 22 of NDPS Act at Police Station Civil Lines, District Jind.
2. The FIR was registered at the instance of Dr. Parbhu Dayal, Deputy Civil Surgeon, PNDT, Jind. It is the case of prosecution that pursuant to receipt of secret information by the officials of Health Department, a raid was conducted at Anmol Jiwan Hospital, Gohana Roan, Jind, Bharat Hospital, Jind and at Hakikat Nagar, Jind on 23.10.2019, 28.10.2019, 4.11.2019,

31.10.2019 and 30.10.2019. It is the case of prosecution that on 22.10.2019, the Civil Surgeon received a call from an unknown person to the effect that a 5-6 months old fetus of a girl had been aborted in a hospital at Kaithal. Upon receipt of said information, the Civil Surgeon constituted a raiding party headed by Dr. Parbhu Dayal, which conducted a raid at DMC Hospital situated at Kaithal road from where one ultrasound report of Raveena wife of Raj, aged 19 years, was recovered. The Incharge at the said hospital disclosed that the said woman had approached their hospital complaining of abdominal pain but upon getting suspicious on account of the age of the said woman, she was advised to consult some other lady doctor. The ultrasound report showed that the same had been prepared at Nath Hospital, Jind on 11.10.2019 and consequently, the raiding team proceeded to the said hospital and collected the record pertaining to ultrasound test reports and from where it was found that a pregnant lady namely Raveena had got ultrasound test conducted on 11.10.2019. After collecting the address of the said lady from the hospital record, the raiding team visited the residence of said Raveena from where they came to know that Raveena and her father Bijender has shifted to Raj Nagar, Jind. Consequently, the raiding team went to Raj Nagar where mother of the girl namely Raveena was found and who disclosed that the pregnancy of her daughter had been got terminated from Anmol Jiwan Hospital, Jind on 21.10.2019 through Dr. Naresh who had charged an amount of ₹14,000/-. It is further the case of prosecution that on 23.10.2019, the raiding team went to Anmol Jiwan Hospital at about 7 p.m. and met Dr. Naresh who informed that 'abortion' of pregnancy had been conducted in his hospital but the same had been conducted by Dr. Rakesh

and that the medicines which had been used had been brought by Dr. Rakesh. Thereafter, when the raiding team called Dr. Rakesh, he took a stand that Dr. Naresh was telling a lie and that the CCTV footage of DMC Hospital may be checked.

3. It is further the case of prosecution that on 28.10.2019, the raiding team visited RKD situated at Patiala Chowk, Jind and made enquiries about the abortion but no record in respect of the same could be found. Thereafter, the raiding team visited DMC Hospital and enquiries were made from Dr. Rakesh. Although, his hospital was thoroughly checked but nothing incriminating was found. A search at the residence of Dr. Rakesh was also conducted but the same did not yield anything incriminating. It is further the case of prosecution that on 28.10.2019, the raiding team again contacted Raveena in Raj Nagar, Jind and wherein after some counselling, Raveena disclosed that on 11.10.2019 a boy namely Rakesh had taken her to house of a lady namely Dr. Kamlesh in Hakikat Nagar, Jind where Dr. Kamlesh checked her and her daughter-in-law inserted a tablet in her private part for the purpose of terminating the pregnancy. Raveena further disclosed that Dr. Kamlesh has prepared a slip and handed over the same to Rakesh telling him to get 'ultrasound' of Raveena conducted. Rakesh, thereafter, got the 'ultrasound' examination conducted from Nath Hospital. Thereafter, on 13.10.2019, on the asking of Rakesh, Raveena went to Bharat Hospital where Dr. Sonu gave IV Fluid, mixed with glucose in a bottle. Dr. Pooja gave her a tablet asking her to keep the same underneath her tongue and was asked to visit the hospital on the next day. However, Raveena could not go to the hospital on the next day. Subsequently, on 19.10.2019 when the

aforesaid Raveena was having pain, Rakesh told her to go to another hospital and gave ₹ 20,000/- to her mother and her mother took her to DMC Hospital where she was administered IV Fluid and also an injection. However, since the doctor nursed some suspicion, he asked the patient to get herself examined from some other doctor and discharged her. When Raveena was leaving the said hospital, Dr. Naresh, who was also present there, asked Raveena's mother to come to Anmol Jiwan Hospital for the purpose of getting the pregnancy terminated and demanded an amount of ₹ 14,000/- for the same. On the same day i.e. on 19.10.2019, at about 11 p.m. Raveena and her mother reached Anmol Jiwan Hospital, Jind where Dr. Naresh administered IV Fluid and an injection and kept her admitted till the evening of 20.10.2019 and then asked her to visit the hospital on the next day. On the next day i.e. on 21.10.2019, Dr. Naresh aborted the pregnancy completely and gave some medicines and received the amount of ₹ 14,000/- from the mother of Raveena.

4. It is further the case of prosecution that on 28.10.2019, a raid was conducted at Anmol Jiwan Hospital which was found closed. However, the father of Dr. Naresh as well as his brother were called and in their presence, the hospital was opened and search was effected and from where many medicines, pregnancy test kits and other articles were found. However, on account of absence of Drug Control Officer, the hospital was sealed. On 30.10.2019, a raid was conducted on Smt. Kamlesh, Hakikat Nagar and many medicines and instruments were found. On 31.10.2019, a raid was conducted at Bharat Hospital where Dr. Sonu Singh Ahalawat and Dr. Pooja Ahalawat were found and the records were checked. Upon

search of the dispensary and the labour room, one used 'Oxytocin' and one 'Methergine' ampule were found regarding which Dr. Sonu Singh Ahalawat could not furnish any explanation, although, no other instrument or any tool for the purpose of 'Medical Termination of Pregnancy' was found in the hospital. Both the said two doctors i.e. Dr. Sonu Singh Ahalawat and Dr. Pooja Ahalawat did not state anything about Raveena being visited their hospital or regarding her abortion. Thereafter, the raiding team again conducted an inspection of Anmol Jiwan Hospital after opening the seal and took into possession various articles including MPT Kit, medicines, pregnancy test kits, Tramadol, instruments etc. It is, thus, alleged that Smt. Kamlesh and her daughter-in-law Mamta had administered medicines in private parts of minor girl Raveena for causing miscarriage of fetus and had, thus, violated provisions of Sections 3, 4 and 5 of the Medical Termination of Pregnancy Act, 1971 as none of them is having any qualification or authorization for doing the same. It is further alleged that since Dr. Sonu Singh Ahalawat and Dr. Pooja Ahalawat had also administered injection and tablet to Raveena on 13.10.2019, they had violated provisions of Sections 3, 4 and 5 of the Medical Termination of Pregnancy Act, 1971 as they are not even having requisite qualification. It is alleged that Naresh was practising allopathic medicine without having any degree and was, thus, cheating innocent and gullible persons and had, thus, committed offences under Section 15(2) and 15(3) of Indian Medical Council Act, 1956 and also an offence under Section 420 IPC and by having kept into possession MTP Kits used for abortion has committed offence under Sections 3, 4 and 5 of the

Medical Termination of Pregnancy Act, 1971 apart from having committed offences under the Drugs Act.

5. The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that Anmol Jiwan Hospital is not owned by him and he is merely a matriculate and not any doctor, as is being alleged in the FIR. It has further been submitted that the petitioner in any case deserves grant of anticipatory bail on ground of parity inasmuch as two of the co-accused Dr. Sonu Singh Ahlawat and Dr. Pooja Ahlawat have already been granted anticipatory bail by this Court vide order dated 6.2.2020 (Annexure P-4).
6. Opposing the petition, the learned State counsel has submitted that since the petitioner is the main accused as it is the petitioner who had accepted an amount of ₹ 14,000/- for the purpose of getting the pregnancy terminated and is specifically alleged to have conducted the abortion, no special case for grant of anticipatory bail is made out.
7. I have considered rival submissions addressed before this Court. A perusal of the FIR would show that it is the petitioner who had specifically held out a representation to the victim and her mother to the effect that he would get the pregnancy terminated for an amount of ₹ 14,000/- and had infact received an amount of ₹ 14,000/- from the mother of the victim and is also alleged to have conducted the abortion on 21.10.2019, his involvement in the entire occurrence is clearly evident. The petitioner cannot claim any parity with the case of Dr. Sonu Singh Ahlawat and Dr. Pooja, as they are not alleged to have themselves terminated the pregnancy.

8. Keeping in view the role of the petitioner and the specific allegations against him, this Court does not find any special case for grant of anticipatory bail. There is no merit in this petition and the same is hereby dismissed.

20.2.2020

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No