

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

102

**CRM-M-29478-2020 (O&M)
Date of Order:24.09.2020**

Dharmender @ Sonu

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Nirmal Singh, Advocate,
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana

ANIL KSHETARPAL, J(Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner prays for grant of bail pending trial in a criminal case arising from FIR No.264, dated 19.08.2020, registered under Section 3A/4/5(1)/6A/18/23/29 of the Pre-conception and Pre-Natal Diagnostic Technique Act, 1994 and Section 34/120B/420 IPC, at Police Station Beri, District Jhajjar.

At the outset, it is important to note that the prayer for pre-arrest bail of a co-accused -Sarita Dahiya has been dismissed vide order dated 17.09.2020, passed in CRM-M-28304-2020 which is extracted as under:-

“The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

This petitioner, who is working as a Staff Nurse in the Government Hospital, prays for grant of bail pending trial in a criminal case arising from FIR No.264, dated 19.08.2020, registered under Section 3A/4/5(1)/6A/18/23/29 of the Pre-conception and Pre-Natal Diagnostic Technique Act, 1994 and Section 34/120B/420 IPC, at Police Station Beri, District

Jhajjar.

In a nutshell, the case of the prosecution has been noticed by the learned Additional Sessions Judge, Jhajjar in paragraph 2 of its order dated 04.09.2020, which is extracted as under:-

“2. The prosecution case in nutshell is that for apprehending people involved in illegal racket of sex determination, a Team was constituted in which complainant Dr. Achal Tripathi, PNDT was Nodal Officer. Umang Kadiyan four month pregnant gave her consent for being decoy pregnant lady. On Saturday, 15.08.2020, the decoy with her husband reached Ploy Clinic Jhajjar, Sector-06, where Neelam staff nurse working at Ploy Clinic took the phone number of decoy and decoy's husband. Neelam said that for sex determination she will take Rs. 26,000/- and car/taxi would be that of decoy. Neelam told the decoy that time, place and other thing would be intimated to decoy after discussion with other members. Neelam called decoy's husband on Sunday at about 8:00 p.m. and said that be ready with Rs. 26,000/- cash and taxi. One person Sumit would take them for sex determination on Monday. The phone number of Sumit was sent by Neelam to decoy's husband. When husband of decoy called Sumit he told decoy's husband that he will meet them near Oscar Hospital, Jhajjar at 12:00 p.m. Thereafter, Sumit immediately called back and told that he is wrong person. He is doing real estate business. He does not know decoy. Later on, decoy came to know that Sumit became aware that she is working in Anganwari Health Department. Subsequently, Team for busting illegal sex determination racket cracked a deal qua illegal sex determination for Rs.70,000/-. This time Sumit met decoy at Chhikara Chowk, Jhajjar at about 8:30 a.m. on 18.08.2020. Sumit ask for money and decoy handed over Rs. 70,000/- cash to Sumit. The Team was following decoy vehicle from Chhikara Chowk till Gaziabad, U.P. During journey Sumit called a lady i.e. accused-applicant Sarita Dahiya (Staff Nurse, Civil Hospital, Jhajjar) and told her that he has taken whole money and he would proceed as per their discussion. Sumit called a person named Sonu Bhai (Sonu Bhindawas as seen by decoy in

Sumit mobile Contacts) Ultrasound Gyne Center (USG). As per the conversation Sonu confirmed Ultrasound Gyne Center for sex determination. Sumit was updating everything to Neelam, Sarita and Sonu about the operation. In Gaziabad, U.P. Sumit halted for a refreshment near Vijay Nagar, Police Station. One person Ramesh Kumar and a lady Sadhna took decoy to Sarvodya Hospital, Shastri Nagar, Gaziabad. Later, one man came in Wagon-R. Two pregnant ladies, one named Anuradha were already sitting in the car. He took the decoy in same car to a house through unknown streets. In the house a male (doctor) did USG on portable machine and informed decoy that report would be given to her later when all the three USG were done. Then same boy dropped decoy on Pulsar bike near Sarvodya Hospital, where she was handed over to Ramesh and Sadhna. Ramesh and Sadhna took decoy to Sain Chowk, Gaziabad. Ramesh and Sadhna left the place after telling something to Sumit. Sumit informed the decoy that he will tell her report after reaching Beri. Subsequently, when they reached Wazirpur, Beri Sumit told decoy that her report is negative. The decoy informed the Team about sex disclosure of fetus. On the basis of which the Team nabbed Sumit at Wazirpur, Beri. The Team recovered Rs.15,000/- from decoy identified currency given by the Team to the decoy. On the basis of complaint made by complainant to the police, the FIR under Section 3, 4, 5, 6, 18, 29 PCPNDT Act, 120B IPC, 420 IPC & 34 IPC was registered.” Learned counsel for the petitioner contends that the petitioner do not have any connection or dealing with Sumit. He further contend that the main accused is Neelam, who was collecting the amount and finalizing the deals. He further submits that the petitioner has been falsely implicated when she is busy in getting treatment of her daughter who is seriously ill for more than a month. On the other hand, Sh. Chetan Sharma, Assistant Advocate General, Haryana, has pointed out that the prosecution has the audio recording of the conversation between the petitioner and Sumit which clearly show that it is the petitioner, who was directing Sumit to charge Rs.29,500/- from the decoy customer. It has further been

pointed out that during this period there are as many as 19 telephone calls between Sumit and Sarita, the petitioner. This court has considered the submissions. The Parliament enacted the Pre-conception and Pre-Natal Diagnostic Technique Act, 1994 prohibiting determination of the sex of the fetus so as to prevent the people from going in for abortion which results in destroying female foetus in the womb itself. However, certain unscrupulous persons from the medical profession are still indulging in the illegal activities. Keeping in view the aforesaid facts, there is no ground to grant the concession of pre-arrest bail to the petitioner. Dismissed.”

As per the case of the prosecution, Sumit (co-accused) while taking decoy pregnant lady for illegal sex determination, had talked to the petitioner as many as on 5 occasions on his mobile phone. The prosecution alleges that if the test report shows that the pregnant women carries a foetus of a girl child then the petitioner was to make arrangements for its abortion.

Learned State counsel has informed the court that the petitioner is also involved in another case under the Pre-conception and Pre-Natal Diagnostic Technique Act, 1994

Keeping in view the aforesaid facts and for the reasons recorded in the order dated 17.09.2020 extracted above, this court does not find it appropriate to extend the concession of pre-arrest bail to the petitioner.

Dismissed.

September 24, 2020
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No