

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

CRM-M-42582-2020 (O&M)

Date of decision: 08.07.2021

Malkiat Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Ms. Roja Agnihotri, Advocate for the petitioner.

Mr. J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Malkiat Singh, an accused in FIR No.195 dated 05.11.2020, for offences under Sections 420, 120-B IPC and Sections 3(A), 4, 5(2), 6(b) of Pre-natal Diagnostics (Regulation and Prevention of Misuse) Act, 1994, registered with Police Station Sadar Ahmedgarh, District Sangrur.

Briefly stated the facts of the case as per prosecution story are that, on receipt of secret information that illegal activities in the form of female foeticide were being carried out in the area of Sangrur a raiding team headed by Dr. Ravinder Kaler was constituted to apprehend the culprits; a team of health officials from Hisar was also associated; one Monika wife of Anil having 18 weeks pregnancy was joined with the

raiding party as a decoy; a sum of Rs.25,000/- was handed over to her; the matter was discussed with tout Kamaljeet Kaur and deal was finally struck for termination of pregnancy of decoy Monika for Rs.25,000/-; Monika met Kamaljeet Kaur and the former asked the latter to sit pillion on her scooty, which she did and both of them then proceeded towards Ludhiana-Sangrur road; after sometime, Kamaljeet Kaur made Monika to sit in a Verna car, where petitioner/accused Malkiat Singh was there, who performed sex determination test on decoy Monika with a portable ultrasound machine, looking like a mobile phone and informed Monika that the foetus being carried by her was a female; thereafter, Malkiat Singh driving the car, dropped Monika near Kamaljeet Kaur, tout; thereafter, the petitioner talked with Kamaljeet Kaur and left towards Sangrur in his Verna car; the team of health officials from Hisar apprehended Kamaljeet Kaur in the meanwhile; team from Sangrur also reached there; a sum of Rs.8000/- was recovered from Kamaljeet Kaur; as informed by Kamaljeet Kaur, the remaining amount of Rs.17,000/- had been given to the petitioner; after completion of necessary formalities, police of Police Station Sadar Ahmedgarh was informed, on the basis of which, formal FIR was registered.

Apprehending his arrest in this case, the petitioner had approached the Courts of Sessions at Sangrur, by moving an application for grant of pre-arrest bail. However, his such application which was assigned to Addl. Sessions Judge, was however dismissed, vide order dated 20.11.2020. As such, the petitioner has approached this Court,

craving for grant of similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the record.

Pre-arrest bail is a discretionary equitable relief, which is to be granted by the Court in rare and exceptional circumstances to save the innocent persons from harassment and inconvenience and not to provide protective umbrella to the criminals enabling them to avoid arrest and interrogation by the investigating agency. In the instant case, as per reply filed on behalf of the State, the petitioner is involved in 06 more cases, as per details below:-

1. FIR No.106 dated 20.12.2015, under Sections 420, 315, 316, 120-B IPC and Sections 22 and 23 of PDTP Act, 2003, registered at Police Station Sadar, Ahmedgarh.
2. FIR No.24 dated 15.03.2018, under Sections 420, 120-B IPC and Sections 3(3), 4(5), 5, 6, 18 and 23 of PNDT Act Rule 11(2), registered at Police Station Sadar, Ahmedgarh.
3. FIR No.26 dated 03.04.2018, under Sections 420, 120-B IPC and Sections 3(3), 4(5), 5, 6, 18 and 23 of PNDT Act Rule 11(2), registered at Police Station Sadar, Ahmedgarh.
4. FIR No.182 dated 15.11.2019, under Sections 3, 4, 5, 6, 6 (c), 18, 23, 25 of PNDT Act and Section 420 IPC and Sections 21(C) and 22(C) of NDPS Act, registered at Police Station Gulha, District Hisar.
5. FIR No.73 dated 05.06.2019, under Sections 420, 120-B IPC, registered at Police Station City-I, Malerkotla.
6. FIR No.420 dated 18.09.2016, under Sections 3, 4, 5, 6, 23, 29 of PNDT Act, registered at Police Station City Tohana.

The petitioner is shown to be facing trial in 03 cases, whereas, the matter is being investigated in one case, although, one FIR is shown to have been cancelled and in one case, untraced report has been sent. Thus, it comes out that petitioner has been indulging in criminal activities, which points out towards his involvement in the present case. The allegations against the petitioner are very grave and serious of conducting pre-natal test upon Monika, a decoy sent by the raiding team, in violation of provisions of PNDT Act, 1994. Thus, on account of petitioner coming out to be habitual offender, he is not entitled to grant of pre-arrest bail. Furthermore, his custodial interrogation is necessary for complete and effective investigation and to effect the recovery of machine used for carrying out the test and Verna car in which the test had been carried out. In case, custodial interrogation, which is more elicitation oriented, is denied to the investigating agency that shall leave many loopholes, lacuna and gaps in the investigation, adversely affecting the case of prosecution, which is uncalled for.

Learned State counsel has submitted that though the petitioner has joined the investigation but he has not rendered full cooperation and has not come up with the complete facts with regard to the present case.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation

orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations. Custodial interrogation elicitation oriented since a person couched in comparative safety of the pre-arrest bail would certainly not disclose all the facts within his knowledge fully aware of the fact that the investigating agency would not be able to take any action against him for not coming out with the complete information within his knowledge.

Thus, no case for grant of pre-arrest bail to the petitioner is made out. The petition is found to be without any merit and is dismissed accordingly.

08.07.2021

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No