

CRM-M-30026-2022

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

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Date of decision:21.07.2022

Gaurav alias Gaurav Tyagi

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Suneel Ranga, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks post-arrest bail in case bearing FIR No.192 dated 12.04.2022, registered at Police Station Sector 10, Gurugram, under Sections 5(2), 23 and 29 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, Sections 18(a) (i), 18(c) Drugs and Cosmetics Act, 1940 and Sections 420 and 120-B IPC.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that though the petitioner is owner of M/s Amra Hospital, yet he is not responsible for the illegal act, if any, committed by any employee working there; that learned Addl. Sessions Judge, Gurugram, while granting the benefit of bail to co-accused, Nishant Tyagi, vide order dated 05.07.2022 (Annexure P-3), has noticed that no material action had been taken against M/s Om Imaging and Diagnostic Centre and even the doctor of the aforesaid Diagnostic Centre had not been joined in investigation. Learned counsel further contends that

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no overt act has been attributed to the petitioner, and that the alleged sex determination test had not been conducted in the hospital owned by the petitioner; that in fact, a Clerk/Assistant, working in the hospital of the petitioner, was looking after the affairs of the hospital and had taken decoy patient to M/s Om Imaging & Diagnostics, and that the petitioner had not committed any offence. Learned counsel further contends that challan has been presented and that the petitioner has been in custody since 12.04.2022.

Learned State counsel, on the other hand, while opposing the grant of bail to the petitioner, submits that the petitioner is owner of M/s Amra Hospital and indulged in the business of determination of sex illegally, and that the petitioner had actively participated in the commission of the offence.

I have heard the learned counsel for the parties.

As per the case of prosecution, Dr. Pardeep Kumar, Nodal Officer, PNDT, Gurugram, received a secret information that Neelam, Gaurav Tyagi (petitioner) and Agam were indulged in the business of illegal determination of sex in District Mewat; that they used to bring pregnant women for sex determination by way of ultrasound machine at various USG Centres of District Gurugram, that for doing the same, they used to charge Rs.60,000/- to Rs.65,000/- per patient; that the team of Health Department, Nuh, arranged one decoy patient named Smt. Luxmi, who had contacted Dr. Neelam for conducting sex determination test; that the deal was struck for Rs.60,000/-; that an amount of Rs.20,000/- was transferred in the account of Nishant Tyagi; that Neelam asked the decoy to

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come with balance payment on 11.04.2022 at Amra Hospital; that Neelam had arranged copy of Aadhar Card of the decoy in the name of Stuti Sharma and prepared referral slip on the letter pad of Amra Hospital after putting the stamp of Dr. Gunjan Aggarwal, and the same had been handed over to taut Agam (Nursing Staff); that they were sent to M/s Om Imaging and Diagnostics where Agam and the decoy Luxmi had met employees of M/s Om Imaging Diagnostics; that Dr. Amish Aggarwal had conducted Sonography test on the decoy and prepared report in the name of Stuti Sharma and handed over the same to Agam; that the decoy patient had returned to M/s Amra Hospital and met Dr. Neelam, who after making telephone call told the decoy that she was having a male child in her womb, and that thereafter, a raid was conducted at Amra Hospital.

The petitioner is stated to be owner of M/s Amra Hospital where *Aadhar* Card and referral slip of decoy Laxmi in the name of Stuti Sharma were prepared and she had been sent to M/s Om Imaging and Diagnostic in a car bearing Registration No.HR-60-E-8245, owned by the petitioner. The said car has been recovered at the instance of the petitioner. There are also allegations against the petitioner that on his asking, co-accused Neelam had got the amount of Rs.20,000/- transferred in the account of Nishant Tyagi. As per the prosecution, the petitioner was an active participant in an organized gang involved in the sex determination of foetus.

There is sufficient material available against the petitioner which would disentitle him for being admitted to bail. Merely the custody period or the fact that the charge-sheet has been filed, cannot be treated as

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persuasive grounds for granting the relief to the petitioner.

Therefore, finding no merit in the present petition, the same is dismissed.

21.07.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No