

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-52276 of 2021

Date of decision: 06.01.2022

Rinkal Sehgal

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajbir Singh, Advocate for the petitioner.
Mr. Sandeep Kumar, DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

Due to COVID-19 situation, the Court is convened through video conference.

This is third petition seeking anticipatory bail in FIR No. 120 dated 24.12.2020, under Sections 3A, 3B, 5, 6, 23, 25 Rule 3-A(1) of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, Sections 420 and 120-B IPC (Section 15(2) of the Indian Medical Council Act, 1956 added later on), registered at Police Station Daba, District Ludhiana.

The first petition bearing CRM-M-2544 of 2021 under Section 438 Cr.P.C. before this Court was dismissed on 19.1.2021. The order is reproduced below:

“The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition seeking anticipatory bail in FIR No. 120 dated 24.12.2020, under Sections 3A, 3B, 23, 25 of the

Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Act, 1994 and 420, 120-B IPC, Police Station Daba, Ludhiana. A complaint was received from Chairman, District Operative Authority-cum-Civil Surgeon, Ludhiana. A raid was conducted at Shobha Nursing Care ST No. 1/4 Guru Nanak Nagar, Daba Lohara Road at Ludhiana. A decoy patient, namely, Paramjit Kaur having 16 weeks' pregnancy was taken to the nursing home, Shobha Rani demanded Rs.35,000/- for conducting gender test. After receiving the amount, an outside person was called to conduct the gender test. The serial numbers of currency notes given to Shobha Rani were noted down by Hisar Team. On having suspicion, the person who came to the nursing home for conducting the test fled away leaving behind the Ultra Sound machine and white colour Creta car bearing registration No. PB-10HE-5219.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated and he is not a trained paramedic or radiologist to conduct the gender test. The contention is that even as per the case set up, only preparation was made and no test was conducted actually.

Learned counsel for the State, on instructions from ASI-Gurdial Singh submits that the petitioner is the owner of the car found at the spot; his business cards were recovered from the car as well as the premises of the nursing home showing him to be Public Relation Officer of Bawa Hospital, Ludhiana. She further submits that the petitioner has intentionally given wrong address before the trial court as well as this court as he is resident of House No. 2418 whereas address given is House No. 2148. The contention is that there was another FIR against the petitioner in which the allegations were that he picked up a child and sold the same, however the said matter was compromised as the complainant in that case was from lower strata of the society.

Learned counsel for the petitioner submits that the

wife of the petitioner and Shobha Rani are friends and actually she had taken the car for personal use.

The allegations are serious in nature. The Society is already facing affects of pre-natal sex determination. In spite of specific statute having been legislated, the conduct of such tests is still continuing. The business cards of the petitioner are indicator of the fact that he is associated with the medical profession. Prima facie, the contention that car of the petitioner was asked for by Shobha Rani and he has no concern with medical profession cannot be accepted. His business cards specifically mention him to be Public Relation Officer of a hospital. Not only this, his business cards were also found in the premises of Shobha Nursing Home. His custodial interrogation would be necessary as the complaint needs a deeper probe to dig out the roots of the entire set up.

No case is made out for granting anticipatory bail to the petitioner.

The petition is dismissed.

However, it is clarified that nothing stated above shall be construed as an expression of opinion on the merits of the case.”

The second petition bearing CRM-M-29659 of 2021 under Section 438 Cr.P.C. was filed. Learned counsel for the petitioner after realising that it was the second petition for anticipatory bail without any change in circumstances sought permission to withdraw the petition. On 29.7.2021, the petition was dismissed as withdrawn.

Learned counsel for the petitioner submits that in an enquiry report dated 16.10.2021, the petitioner was held to be innocent by Assistant Commissioner of Police, Industrial Area-B, Ludhiana hence the present petition.

From the pleadings, it is forth coming that son of the petitioner

after dismissal of the anticipatory bail petition by this court on 19.1.2021 moved an application on 28.1.2021 for an enquiry to be conducted in FIR No. 120 dated 24.12.2020. It was on the basis of this application that it was recommended by Assistant Commissioner of Police that Rinkal Sehgal (petitioner) be declared innocent.

The State filed reply by way of affidavit of Rajan Sharma, PPS, Assistant Commissioner of Police, Industrial Area-B, Ludhiana. In the affidavit, it is pleaded that the enquiry report was not based upon the facts and was not approved by Commissioner of Police vide letter dated 23.11.2021. Rather on perusal of the record after joining the Investigating Officer and considering the call details, it revealed that the petitioner was present at the clinic of Shobha Rani. He absconded during examination of Shobha Rani. She had come in a Creta car with an ultra sound machine for conducting sex determination test and that a case for commission of offence is made out against the petitioner as well. As per the pleadings, raids were conducted after 17.12.2021 but the petitioner could not be arrested as he was absconding.

Supreme Court in **G.R. Ananda Babu v. State of Tamil Nadu and another**, 2021(1) RCR (Criminal) 843 has deprecated successive filing of petitions for anticipatory bail. Relevant paragraphs are reproduced below:

“6. We have perused the status report submitted by the Investigating Officer before the High Court for consideration along with case diary, clearly indicating that custodial interrogation of respondent No. 2 is essential and the investigation is still incomplete. Nevertheless, on the third occasion, the learned Judge acceded to the request of

respondent No. 2 and granted anticipatory bail, without referring to the said status report. None of the reasons cited by the learned Judge, in our opinion, can be said to be just basis to show indulgence to respondent No. 2.

7. *As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (respondent No. 2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge.”*

The prayer for anticipatory bail of the petitioner was rejected by Additional Sessions Judge, Ludhiana on 12.1.2021. Thereafter, the petition under Section 438 Cr.P.C. was dismissed by this court by passing a speaking order on 19.1.2021. The petitioner has been successful in delaying investigation for almost a year. Successive petitions for pre-arrest bail are being filed by change of counsel. The petitioner is absconding, avoiding joining of investigation, sitting on the fence trying to influence the investigation.

For filing the present petition, reliance is placed upon the recommendation made on the basis of application moved by the son of the petitioner which was not accepted by the higher officials.

This third petition for anticipatory bail cannot be entertained as no change in circumstances is established.

Considering the conduct of the petitioner of filing successive petitions for anticipatory bail by changing the counsel, the petition is dismissed with costs of Rs.10,000/-.

[AVNEESH JHINGAN]
JUDGE

6th January, 2022
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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |