

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

CRM-M-37-2022

Date of Decision: 23rd November, 2022

Mohammad Vasim Khan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.S. Randhawa, Advocate for the petitioner.
Ms. Geeta Sharma, Deputy Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

This second petition under Section 439 of the Code of Criminal Procedure is filed seeking regular bail in FIR No. 11 dated 12.1.2021 under Sections 420, 353, 201, 120-B IPC and Sections 3 (1, 2 and 3), 4, 5 (2), 6 (A, B and C) and 23 of Pre-Conception and Pre-Natal Diagnostics Techniques Act, 1994 (for short 'the Act') and Section 15 (2) (B) of the Indian Medical Council Act, 1956 registered at P.S. Badli, Bahadurgarh, District Jhajjar.

Earlier petition filed under Section 439 Cr.P.C. was dismissed as withdrawn on 4th August, 2021 with liberty to revive the prayer at a later stage.

As per the case set up, on a complaint received that pre-natal sex determination tests were being conducted, a team was constituted consisting of a decoy customer. There was a chain of accused facilitating the conducting of the ultrasound of the decoy customer. Rupees sixty thousands was paid. The allegations against the petitioner are that he conducted the ultrasound test and Rs.15,000/- was paid to him.

Learned counsel for the petitioner submits that the petitioner is

in custody since 13.1.2021 and co-accused were granted bail. It is argued that the money and ultrasound machine were not recovered from the petitioner. The contention is that even as per the case of the prosecution, the sex of the foetus was not disclosed by the petitioner. It is further argued that the ultrasound was conducted in Uttar Pradesh whereas the complaint is instituted at Jhajjar.

Learned State counsel opposes the prayer and submits that an organized racket was being run and the expecting mothers were taken to Uttar Pradesh from Haryana for det.termination of the sex of the foetus. She on instruction fairly submits that the petitioner is not involved in any other case.

Without commenting on the merits of the case, considering the custody period, the fact that though investigation is complete conclusion of trial is likely to take time, the co-accused were granted bail, it is a debatable issue as to whether the provisions of the Act can be invoked against petitioner and he has no criminal antecedents, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(AVNEESH JHINGAN)
JUDGE

23rd November, 2022

anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No