



Crl.O.P.No.10735 of 2023

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Reserved On	23.08.2023
Pronounced On	31.08.2023

RMT.TEEKAA RAMAN,J.

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 15(3) of Indian Medical Council Act, 1956, Section 417 and 420 of IPC in Crime No.136 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. In Crl.O.P.No.10735 of 2023 on 18.05.2023, this Court has passed the following order,

“2. The fact of the case is that the petitioner has been unauthorisedly practising medicine. The petitioner has produced the certificate issued by the Ministry of Health & Family Welfare Department, Government of India, which had been issued under Rule 12(J) of N.E.H.M. of India, New Delhi.

3. In view of the certificate, this Court suo moto impleads Union of India represented by the Secretary, Health & Family Welfare Department, and the said department is directed to file an affidavit stating as to how such certificates are issued certifying that the person had been medically qualified to give treatment.”



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Consequent to the above order, the 2nd respondent is implicated and the Deputy Solicitor General is present before this Court today.

3. The petitioner is alleged to have committed an offence under Sections 15(3) of Indian Medical Council Act, 1956, Section 417 and 420 of IPC and a case has been registered against the petitioner by the respondent police on 27.04.2023 in Crime No.136 of 2023.

4. The *de-facto* complainant Viz., the Chief Medical Officer, Sholingur Government Hospital has preferred a complaint dated 27.04.2023 at about 8.00 a.m., alleging that he along with Joint Director, Ranipet, Deputy Tahsildar, RTO, Police Constable and Sub-Inspector of Police on 26.04.2023 at about 06.00 p.m., went for an inspection at the premises of the petitioner and claims to have found that the petitioner without studying allopathy medicine is giving treatment to the public using allopathy treatment which amounts to cheating the public by giving allopathy treatment. On the basis of the said complaint, the present case was registered against the petitioner.



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5. The learned counsel for the petitioner would state that he had completed B.E.M.S - Bachelor of Electropathy Medicine and Surgery which is also known as Bachelor Decree in Unani Medicine and Surgery from the recognized institution during the year 2009-2013. He further stated that after completion of the course, he is providing treatment to the needy people in and around the surrounding villages as prescribed in that course. While that being so, only the medicine related to his treatment were used by the petitioner. However, inadvertently the *de-facto* complainant and the respondent police foisted a false case against the petitioner.

6. He also produced a certificate of completion course of B.E.M.S internship certificate, wherein it is certified that he has completed six months intern-ship programme in Cure Medical Institute of Electropathy and Hospital and according to the learned counsel for the petitioner, he has completed Bachelor of Electropathy Medicine and Surgery and relied upon the certificate said to have been issued by the N.E.H.M of India. He also relied upon the judgment of this Court in Crl.O.P.No.23128 of 2018 dated



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22.07.2022 and contended that persons who has completed BHMS (Bachelor of Homoeopathic Medicine and Surgery) are permitted to do allopathy medicine.

7. The Deputy Solicitor General of India appearing for the 2nd respondent, based upon the instructions from the 2nd respondent would contend that with regard to the recognition of the alleged Bachelor of Electropathy Medicine and Surgery course, a committee has been constituted by the Ministry of AYUSH, Government of India and expressed that Committee developed certain essential and desirable criteria for assessing the viability of a given alternative system.

8. Based on those criteria, the Committee examined various alternative systems, including Electrohomoeopathy. But, after examination, the committee did not recommend recognition to any of those alternative systems of medicine except the already recognized traditional systems of medicines, viz., Ayurveda, Siddha, Unani, Homeopathy and Yoga & Naturopathy, which were found to fulfil the essential and desirable criteria developed by the Committee



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for recognition of a system of medicine.

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9. It may be mentioned that this Respondent Department have neither set up nor recognized /authorized anybody / entity, in whatsoever name and form, including NEHM of India, to impart education and award degrees / diplomas / certificates, etc., in respect of any alternative system of medicine (including Electrohomoeopathy), which is not recognised by this Ministry. Consequently, this Ministry also do not recognise any diplomas, certificates, etc., which may have been issued or are being issued in respect of any unrecognised system of healthcare (including Electrohomoeopathy) by any entity.

10. To sum up, at present, Electrohomoeopathy is not a system of medicine which is recognised, or approved, by the Government of India. Consequently, the question of this Ministry having certified any person to have qualified in any branch of alternative system of medicine, which is not recognised, may not arise.



11. Consequently, the Government of India has also clarified Ministry of Health and Family Welfare vide Order No.R.14015/25/96-U & H(R)(pt) dated 25.11.2003 to the effect that,

“ ... In so far as recognizing the courses run by them, it is clarified that the concerned boards/statutory bodies like the Medical Council, give recognition to courses. Since Electropathy is not recognised as a system of medicine, there is no system for recognition of any course run by them in the Health Ministry...”

12. In view of the submissions made by the Deputy Solicitor General of India, Electropathy/Electrohomeopathy is not equivalent to the Ayurveda, Siddha, Unani, Homeopathy & Yoga and Naturopathy and the Bachelor of Electropathy Medicine & Surgery is not recognized and what was recognised is only the Ayurveda, Siddha, Unani, Homeopathy & Yoga and Naturopathy alone. In the above said Government Order, it is also mentioned that the Electropathy is not recognised as a system of medicine and



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hence, I have no hesitation to negate the plea raised by the learned counsel for the petitioner.

13. In the above said decision in Crl.O.P.No.23128 of 2018, this Court has held that to the limited extend, the individuals who have completed BHMS (Bachelor of Homoeopathic Medicine and Surgery) can use the Allopathy medicines and a circular was also issued to that effect on 19.06.2010 by the Office of the Director General of Police Chennai – 600 0004, in Rc.No.147472/Cr.IV(2)/2010 and the G.O.Ms.248, Health and Family Welfare (IM 2-2), dated 08.09.2010 is only to the effect.

14. However, as the petitioner has not studied the course recognised under the G.O. Viz., Ayurveda, Siddha, Unani, Homeopathy & Yoga and Naturopathy and he stands on a different footing, which is not applicable to the facts and circumstances of this case, I find, the complaint is maintainable.

15. As the substantial part of investigation is over, I am inclined to grant anticipatory bail to the petitioner with certain conditions.



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16. Accordingly, the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of Crime No.136 of 2023, within a period of two weeks from the date on which the order copy made ready, and on such deposit, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the **learned J.M, Sholinghur**, on condition that petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five thousand only) to the credit of Crime No.136 of 2023,



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within a period of two weeks from the date on which the order copy made ready.

[c] the final order in respect of the said deposit shall be passed by the learned trial Judge at conclusion of trial.

[d] the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.



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