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

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Date of Decision: 25.05.2023

Surender Kumar

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. J.P. Sharma, Advocate
for the petitioner.

Mr. Rupinder Singh Jhand, Addl. A.G., Haryana.

HARSH BUNGER, J. (Oral)

Prayer in the present petition, filed under Section 438 of the Code of Criminal Procedure, is for grant of anticipatory bail to the petitioner in case FIR No.40, dated 25.02.2023 (Annexure P-1), registered under Sections 3(1), 4, 5(2), 6(a), 18, 23, 29 of the Pre-Natal Diagnostic Techniques (Regulation and Misuse) Act, 1994, Sections 33 and 34 of the Indian Medical Council Act, 1956 and Sections 120-B and 420 of the Indian Penal Code, 1860, at Police Station Ateli, District Mohindergarh.

2. On 11.04.2023 the following order was passed by this Court :-

“Prayer in the present petition, filed under Section 438 of the Code of Criminal Procedure, is for grant of anticipatory bail to the petitioner in case FIR No.40, dated 25.02.2023 (Annexure P-1), registered under Sections 3(1), 4, 5(2), 6(a), 18, 23, 29 of the Pre-Natal Diagnostic Techniques (Regulation and Misuse) Act, 1994, Sections 33 and 34 of the Indian Medical Council Act, 1956 and Sections 120-B and 420 of the

Indian Penal Code, 1860, at Police Station Ateli, District Mohindergarh (Annexure P-1).

Briefly, the abovesaid case FIR has been registered on the complaint of Dr. Harsh Chauhan, Nodal Officer, PNDT Narnaul, who on 25.02.2023 appeared at Police Station Ateli along with team and submitted the complaint and produced two persons namely Nirmal s/o Lal Chand and Sumit s/o Sunil along with one motorcycle, envelope containing Rs.30,000/-, 3 mobile phones, 1 pendrive and other articles. In the complaint it was stated that on 25.02.2023, on the basis of secret information that a racket of sex determination is being run in the area of Narnaul and Ateli, a raiding party was constituted by District Appropriate Authority under the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (PC&PNDT in short) comprising by Dr. Harsh Chauhan, Nodal Officer, Ashok Kumar, Clerk O/o Civil Surgeon, Narnaul and police officials. One Rati Kumari was also associated in the raiding party and furnishes her consent to as a decoy. The decoy patient was called to coming at Ateli on 24.2.2023. Then on 24.2.2023 at about 8:50 a.m., the Nodal Officer had given 30 currency notes in the denomination of Rs.2,000/- each to the decoy patient. Thereafter, the decoy patient was called by the accused Nirmal at Bus Stand Ateli at about 10:30 p.m. Accused Nirmal told the informer through telephonically that the doctor would determine the sex at 7:00 p.m. Accordingly, decoy patient was called near Anarkaur Hospital at Ateli-Kanina Road. Then decoy patient in an unknown vehicle was taken to an unknown place by Nirmal and one another person. The said vehicle was chased by the raiding team but on account of heavy traffic and dark, the aforesaid unknown vehicle was disappeared and it was not found despite sincere efforts. Then the raiding team stopped there and started waiting the said unknown vehicle for its return. At about 8:30 p.m. a vehicle came near Green Park Hotel at Narnaul- Rewari Road and stopped there. Decoy

patient alighted from that vehicle. The said vehicle had again left the spot through. National Highway. Then decoy patient gave signal. Then Nirmal and another person were apprehended at the spot by the raiding party. On personal search of accused Nirmal, 10 currency notes denomination of Rs.2000/- each and a mobile phone were found. On personal search of another person, whose name came to be known as Sumit Yadav, 5 currency notes denomination of Rs.2000/- each and two mobile phones were found. On comparison the serial numbers, these currency notes were matched with the currency notes of decoy patient. Remaining 15 currency notes were not recovered from the accused persons. On asking, decoy patient told that the doctor who conducted the sex determination had talked with Nirmal and then Nirmal said to her that a male foetus was in her womb.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present petition. It is submitted that the petitioner is a shopkeeper in village and running his livelihood and he has no concern with the alleged offence as no act of sex determination was done. It is submitted that there is nothing to connect the petitioner with the alleged crime except disclosure of co-accused. It is contended that petitioner was not present at the spot and neither he was apprehended at spot. It is further contended that there is no communication between co-accused and decoy patient and even the car having decoy patient was not intercepted by the team. It is also contended that the petitioner is a respectable person and he is not involved in any other case. Learned counsel next submits that the bail application moved by the petitioner under Section 438 of the Code of Criminal Procedure Code, for grant of anticipatory bail has wrongly been dismissed by learned Sessions Judge, Narnaul, vide its order dated 02.03.2023. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency

or as directed by this Court or trial Court.

Learned counsel appearing on behalf of the State opposes the petitioner's plea for bail on the ground of seriousness of the offence, however, it is not disputed by learned State counsel that the petitioner is not involved in any other case.

List on 25.05.2023.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/ Arresting Officer. However, he shall join the investigation as and when directed by the Investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.”

3. Learned counsel for the petitioner submits that pursuant to the aforesaid order, the petitioner has joined the investigation.

4. Learned State counsel on instructions from Police Sub-Inspector Deepak has not disputed the aforesaid fact of joining of investigation by the petitioner and submits that his custodial interrogation is not required at this stage.

5. Heard learned counsel for the parties.

6. Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 11.04.2023 passed by this Court is made absolute.

7. However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

8. It is made clear that if the petitioner fails to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would

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be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

9. Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.

10. The petition is accordingly disposed of.

25.05.2023
Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No