

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14419 of 2023

Date of Decision: April 19, 2023

Manoj Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Manoj Pundir, Advocate for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J.

Status report dated 13.04.2023 by way of affidavit of Shri Jai Singh, DSP, Ladwa on behalf of the respondent has already been filed.

2. By way of this petition, petitioner prays for grant of anticipatory bail in case FIR No.703 dated 14.12.2022 registered under Sections 2, 3, 3A, 3B, 4, 5, 6, 18, 23, 27, 29 of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and Rule 3 (3A), 4, 9, 10, 18 (I to XI) and Section 15(2), 15(3) of India Medical Council Act and Sections 420 and 120-B IPC at Police Station Ladwa, District Kurukshetra, Haryana.

3. Allegations are that Civil Surgeon, Kurukshetra had received secret information regarding some touts indulging in conducting of the illegal sex determination tests of fetus. A team was constituted. On the basis of information, a tout, namely, Raj Kumar @ Laddi was contacted,

who agreed to get the required sex determination test done on payment of ₹45,000/-. A pregnant lady, namely, Anu was made a decoy patient. Subsequently, two touts, namely, Saroj and Deep Kaur took the decoy to Deoband in UP, where they contacted one Manoj son of Amar Singh and who took them to a doctor for getting the ultra-sound of the decoy customer done. The touts Raj Kumar alias Laddi, Saroj and Deep Kaur were arrested, who suffered disclosure statements from time to time. Call detail records of the mobile of accused Saroj and that of Manoj were collected and it was found that they were engaged in conversation with one suspected mobile, which was found to be of Mohammad Javed. Said Mohammad Javed was arrested, who during interrogation admitted his crime and who nominated the petitioner to be the person, who had got conducted the sex determination test through Doctor Anish.

4. It is contended by the petitioner that he along with his father are doing small farming on their ancestral land. Co-accused Mohammad Javed belongs to their neighboring village and runs a Herbal Store; that petitioner's family used to take treatment for minor diseases from the said co-accused. Some dispute had arisen between them and that after his arrest, co-accused Javed has wrongly implicated the petitioner to settle the score. It is further contended that all the offences in question are punishable up to three years imprisonment; that no notice under Section 41 of Cr.P.C has ever been served. Learned counsel has referred to ***Arnesh Kumar Vs. State of Bihar and another, 2014(8) Scale 250***, in order to contend that Police cannot automatically arrest a person when offence is punishable up to three years imprisonment and has to make compliance of the provisions of Section 41 Cr.P.C. Further reliance has been placed upon ***Satender Kumar Antil Vs. Central Bureau of***

Investigation and Another, 2022 AIR (Supreme Court) 3386. It is contended further that petitioner is ready to join the investigation.

5. Learned State Counsel submits that notice dated 21.01.2023 and 25.03.2023 under Section 41-A Cr.P.C were sent to the present petitioner but he did not join the investigation till date. It is submitted further that as per investigation, petitioner knows the doctor, who had conducted the ultra-sound of the decoy and that recovery of the ultra-sound machine and amount is still to be effected. Culpability of remaining accused is also to be disclosed by the petitioner. It is further contended that specific allegation against the petitioner is that he is involved in racket of sex determination and ramification of such like offences is serious. Recovery of amount is to be effected and so custodial interrogation of the petitioner is imperative.

6. Having regard to the nature of allegations against the petitioner and the nature of crime allegedly committed in this case, custodial interrogation of the petitioner may be very much necessary not only to unearth the entire truth regarding the sex determination racket but also to recover the ultra-sound machine. Allegations against the petitioner cannot be stated to be false or unfounded at this stage.

9. As such, present petition is hereby dismissed. However, if and when arrest of petitioner is effected, police will ensure compliance of guidelines provided under Section 41 Cr.P.C.

April 19, 2023
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(DEEPAK GUPTA)
JUDGE

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