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2023:PHHC:113520

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-33461-2023

DECIDED ON: 19th JULY, 2023

VISHAL KUNDRA @ DR. VISHAL KUNDRA

PETITIONER

VERSUS

STATE OF PUNJAB

RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Neeraj Jain, Advocate
for the petitioner.

Mr. Karan Puggal, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for the grant of regular bail to the petitioner in FIR No. 182, dated 24.08.2022, under Sections 304 and 420 IPC and Section 15 of Indian Medical Council Act, 1956, registered at Police Station Hakima District Police Commissionerate Amritsar.

2. Learned counsel for the petitioner submits that the petitioner has neither operated upon Pinky (wife of the complainant) nor the alleged operation was done in his presence and has been falsely implicated in the present simply for the reason that he is the incharge of the hospital. It is asserted that in fact the operation was operated by the co-accused Veer Singh. The said fact is corroborated from the statement of one Kanchan. The assertion is that on perusal of FIR it is abundantly clear that the death of the deceased has taken place on account of medical negligence, which

attracts only an offence under Section 304-A IPC.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. As per the custody certificate the petitioner has gone under custody for a period of 5 months and 25 days only as of now. He prays for dismissal of the present petitioner stating that the wife of the petitioner was taken to operation theatre by the petitioner only and was operated upon without the consent of the complainant.

4. Heard learned counsel for the respective parties.

5. From the perusal of record, it is crystal clear that the complainant has got admitted his wife for delivery in Vishal Hospital, Amritsar where she was operated and due to excess bleeding, hysterectomy was conducted on the patient and later on, she was referred to Sun Rise Hospital, where she had died on 25.02.2022. As far as the contention of learned counsel for the petitioner with regard to the fact that the surgery was performed by Veer Singh whereas, the said Veer Singh is a care taker.

6. In view of discussions made hereinabove, this Court is of the considered view that the neither the petitioner nor Veer Singh was a registered medical practitioner and looking into the gravity of offence, without commenting upon the merits of the case, the petitioner does not deserve the concession of bail. Accordingly, the present petition stands dismisses being devoid of any merit.

(SANDEEP MOUDGIL)
JUDGE

19th JULY, 2023
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |