

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 38044 of 2023

Reserved on : 25.09.2023

Pronounced on : 29.09.2023

GURDEEP

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Malkiat Singh, Advocate, and
Mr. Rajat Turka, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana.

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SANJIV BERRY, J.

By way of the present petition filed under Section 438 Cr.P.C the petitioner is praying for anticipatory bail in the event of arrest in FIR (Annexure P-1) detailed as under:-

FIR No.	Dated	Sections	Police Station
232	18.06.2023	420 and 120-B IPC and 4, 5(2), 6, 18, 23, 29 PC and PNDT (Regulation and Prevention of Misuse) Act, 1994 and 34 of NMC Act, 2019	Pundri, District Kaithal.

2. In nutshell, the case put forth by the prosecution is that the FIR

was registered on the complaint of Dr. Gaurav Poonia, posted in the office of Civil Surgeon, Civil Lines, Kaithal (Haryana) stating that pre-natal sex determination tests were illegally conducted in Kurukshetra and adjoining district of Kaithal by brokers, due to which sex ratio is continuously declining. On the basis of the secret information and to unearth the racket of illegal sex determination, a raiding team was constituted and a decoy pregnant lady was deputed to contact a broker namely Gurdeep i.e. the petitioner and she was handed over ₹60,000/- to pay the broker by the team. The petitioner called her at his private hospital located at Pundri and from there she was sent to Mujaffar Nagar with co-accused Vijay. The decoy handed over the amount to the co-accused Vijay who after receiving the said amount, took the decoy to Mujaffar Nagar and on reaching there, she was taken further by the co-accused Parul Ali; and was thereafter dropped at the same point after getting conducted her illegal sex determination of foetus. While coming back to Pundri the raiding team apprehended co-accused Vijay from whom ₹49,000/- were recovered as he paid ₹11,000/- to co-accused Parul Ali at Mujaffar Nagar. The co-accused Parul Ali shared the photographs of ultrasound report of decoy pregnant lady to co-accused Vijay and the same have been retrieved from the mobile phone of co-accused Vijay during the investigation and hence the present FIR.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the case. He submits that the name of the petitioner had surfaced in the FIR on the basis of disclosure statement made by the prime accused Vijay, who was playing

the main role in the occurrence of the offence. It is further contended by the learned counsel for the petitioner that there was no active part taken by the petitioner in the whole incident for commission of the offence. The only allegation levelled by the decoy and the informer is that he was playing the role of broker which is without basis and nothing was recovered from the petitioner in his diagnostic centre. He submits that the present case has been registered without following the provisions of the Pre-Conception and Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (hereinafter referred to as ‘ PC & PNDT Act’) and the petitioner has been falsely implicated in this case. He submitted that the petitioner is ready to join the investigation and prays for grant of concession of bail to the petitioner.

4. *Per contra*, the learned State counsel has opposed the bail petition and argued that as per reply dated 23.08.2023 filed by Deputy Superintendent of Police, AEC, Kaithal, petitioner has been specifically named in the FIR and has been found actively involved in the commission of the offence. He submits that call detail record of co-accused Parul Ali were taken into possession and from its perusal he has been found in contact telephonically with the petitioner. Photos of foetus by illegal termination of pregnancy were found in the mobile phone of co-accused Vijay which were clicked in the hospital run by the petitioner. He submits that the custodial interrogation of petitioner is required to unearth the details of the other persons involved in the racket as well as there *modus operandi* and as such he prays for dismissal of the petition.

5. Considering the respective arguments and perusing the record, it transpires that the present case was registered on the complaint of Dr. Gaurav Poonia, stating that pre-natal sex determination tests were conducted illegally in Kurukshetra and adjoining districts. On the basis of the secret information a raiding team was constituted and a decoy pregnant lady was deputed after taking her consent and handed over ₹60,000/-to contact a broker namely Gurdeep i.e. the present petitioner. The petitioner called her at his private hospital located at Pundri and from there sent her to Mujaffar Nagar with co-accused Vijay. As stated the decoy handed over the amount to co-accused Vijay who took the decoy to Mujaffar Nagar and on reaching there, she was taken further by the co-accused Parul Ali; and was thereafter dropped at the same point after getting conducted her illegal sex determination of foetus. Co-accused Vijay was apprehended by the raiding team and recovered marked currency notes of ₹49,000/- from him. It is further the case of the prosecution that after conducting ultrasound to determine the gender of the foetus growing in the womb of decoy, co-accused Parul Ali had sent the photographs to the mobile phone of the petitioner as well as to Vijay and there are also the call details showing the petitioner being in regular touch with co-accused Parul Ali and Vijay. Therefore, it transpires that the petitioner along with co-accused Parul Ali and Vijay were indulging in the crime in determining the pre-natal sex of the foetus and then getting it terminated if foetus was of female child. It is the case that the name of the petitioner has cropped up in the disclosure statement of co-accused Vijay but he is named in the FIR itself as main

culprit.

6. After considering the respective submissions and considering the reply submitted by the State, it transpires that specific attribution is there to the petitioner to have actively involved in the illegal sex determination in violation of the provisions of the PNDT Act. To unearth the truth the details of the other persons involved in the racket as their *modus operandi* the custodial interrogation of the petitioner is required.

7. Therefore, considering the nature and gravity of the offence, I find no case is made out in favour of the petitioner for grant of anticipatory bail, the petition is hereby dismissed.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

29.09.2023

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i) Whether speaking/reasoned? Yes/No

ii) Whether reportable? Yes/No