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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-44981-2023 (O & M)

Date of decision: 08.12.2023

Vinod Kumar

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.R. Yadav, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.61 dated 05.02.2023 under Sections 3, 4, 5 Medical Termination of Pregnancy Act, 1971, under Sections 336, 332, 420, 120-B IPC, Section 34 of the National Medical Commission Act and under Sections 18A, 18(c), 27(b)(ii) of the Drugs and Cosmetics Act, 1940, registered at Police Station Kheri Pul, District Faridabad.

2. The brief facts of the case are that the present FIR was registered on the complaint dated 05.02.2023 moved by Dr. Maan Singh at Police Station Kheri Pul, with the allegations that he had received information regarding illegal medical termination of pregnancies being conducted by Vinod (petitioner) practising as a doctor at M/s Chandsi Clinic, Kaccha Kheri Road, Bharat Colony, Faridabad by supplying MTP kits to the pregnant ladies. To enquire into the information, the Civil Surgeon,

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Gurugram constituted a team comprising of Dr. Harish, MO, Gurugram, Dr. Chitra LMO. Anita wife of Sonu was contacted to become a decoy for the operation. On 05.02.2023 at about 11.30 a.m., the team alongwith the decoy came near the clinic and informed Civil Surgeon, Fardiabad for constitution a team for the joint raid. After some time, the team Faridabad consisting of Dr. Maan Singh, Nodal Officer PNDT, Faridabad, Dr. Kuldeep MO and Sandeep Gahlian DCO, Faridabad arrived and met with the team Gurugram. Thereafter, Rs.1000/- in the denomination of Rs.500/- each was handed over to the decoy lady. She was sent to M/s Chandsi Clinic to ostensibly get the pregnancy aborted. She found Dr. Vinod present inside and told him about her pregnancy and that she did not want another child and wanted to abort the same. Dr. Vinod demanded Rs.500/- and handed over “unwanted kit” to her. He advised her the procedure to administer the MTP kit to abort her pregnancy. Thereafter, the decoy lady came out from the Clinic and signalled to the team. Thereafter, the team entered the clinic and nabbed Doctor Vinod who disclosed that he was a 12th class pass and had no medical qualification. His Clinic was also not found registered under the MTP Act. Medical instruments and equipments alongwith some drugs were also recovered.

3. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. However, taking the allegations to be correct, only an MTP kit in question was recovered. The list of instruments allegedly recovered from the Chandsi Clinic were not related to termination of pregnancy and were easily available in households as they did not required any licence. No independent witness had been

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the official witnesses. As the petitioner was in custody since 17.02.2023 and only 02 of the 15 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon. Therefore, he was entitled to the concession of bail, moreso, as he had clean antecedents.

4. The learned counsel for the State, on the other hand, has filed a reply dated 20.10.2023 which is taken on record. While referring to the reply, he contends that serious allegations had been levelled against the petitioner of conducting illegal abortions. The offences of this kind were on the rise and therefore, the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 17.02.2023 and that only 02 of the 15 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first-time offender, in custody since 17.02.2023 and only 02 of the 15 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Vinod Kumar is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. In addition, the petitioner (or anyone on his behalf) shall

prepare an FDR in the sum of Rs.50,000/- and deposit the same with the

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Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 08, 2023
sukhpreet

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