

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

CRM-M-48849-2023

Date of Decision:30.10.2023

Mohammad Aftab @ Mohd. Aaftab

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr.Rakesh Gupta, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 438 Cr. PC with a prayer to grant of anticipatory bail in case FIR No.169 dated 02.06.2023, registered under Section 269,336,420 of IPC and Section 18A,18C of Drugs and Cosmetics Act 1940, at Police Station Punhana, District Nuh (Annexure P-1).

2. The FIR in the present case was registered on the basis of the complaint filed by the Medical Officer, Community Health Centre, Punhana. As per him, a committee was constituted by Senior Medical Officer, CHC Punhana of local doctors and they were authorized to conduct the search and the enquiry at Sahara Health Centre, Punhana. On 02.06.2023, a team of doctors went to the said medical centre and found Dr. Aaftab, present petitioner there, who stated that the clinic belonged to him. Stethoscope, Glucometer, Oxymeter and certain medicines were recovered from there. Even, certain medicines were found, which had already expired. During the investigation, Dr. Aaftab told the police that he had done the degree of BHMS and still he was administering the

allopathic drugs to the patients illegally.

3. Learned counsel for the petitioner contends that the petitioner is a registered medical practitioner, having degree. Even he had passed the degree of Bachelor of Homeopathic Medicine and Surgery (BHMS) and was enrolled with Council of Homeopathic system of medicine. He further contends that there is no complaint against him with regard to administering any allopathic drugs to anyone and no offence is made against him. He further submits that no offence under Sections 269,366 of IPC was made out against him and has been falsely involved by the police illegally.

4. A status report by way of an affidavit of Deputy Superintendent of Police, Punhana has been filed on behalf of respondent-State and the same was taken on record.

5. Learned State counsel submits that the petitioner does not hold any valid pharmacy certificate or MBBS degree and he cannot provide any allopathic medicine to the patients, which were found in his clinic. He further contends that some medicines recovered from the petitioner were of the expiry date and some injections were also found there. Apart from that, there are four beds in his hospital and he was prescribing the allopathic medicines without any valid degree or license in this regard. Learned State counsel also submits that the petitioner had not joined the investigation and was avoiding his arrest. Thus, the petitioner was not entitled to the relief of anticipatory bail under Section 438 Cr.P.C.

6. I have heard the learned counsel for the parties and with their able assistance, I have gone through the record carefully.

7. In the present case, a team of doctors was constituted by the Senior

Medical Officer, CHC, Punhana. The said team had conducted the raid at the clinic of the present petitioner and it was found that he was administering allopathic medicines to the patients, without any MBBS degree or registration with the appropriate authority. In fact, as per the petitioner himself, he had obtained Bachelor of Homeopathic Medicine and Surgery (BHMS) degree and was enrolled with Council of Homeopathic system of medicine. Thus, the serious allegations have been levelled against the present petitioner and keeping in view the seriousness and the gravity of the offence, the bail petition filed by the present petitioner is ordered to be dismissed.

8. Moreover, his custodial interrogation is required to know the names of the co-accused, who were also involved with the petitioner and also to conduct the investigation to its logical end.

30.10.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE