

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-14089 of 2015
Date of Decision : 01.05.2015

Dr. Umika

.....Petitioner

Versus

State of Hayana

....Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present: Mr. Aman Pal, Advocate
for the petitioner.

R.P. Nagrath, J.

Prayer in the instant petition is made for grant of pre-arrest bail under Section 438 Cr.P.C. in FIR No. 90 dated 12.03.2015 for offence under Sections 5 (4) of Medical Termination of Pregnancy Act, 1971 (for short 'the Act of 1971'), registered at Police Station Kosli, District Rewari. Sections 313, 201 and 34 of Indian Penal Code (IPC) were added later.

2. Learned counsel for the petitioner vehemently contended that the petitioner is a registered BAMS doctor and running her clinic from Jeevan Jyoti Hospital premises. It is contended that the petitioner never indulged in conducting termination of pregnancy nor she was authorized to do so. It is further contended that as per contents of FIR certain medicines were recovered from Jeevan Jyoti Hospital whereas instruments

were recovered from premises of Lamba Eye Centre, which is adjoining Jeevan Jyoti Hospital. It is further contended that Section 5(4) of the Act of 1971 is not at all attracted to the case of the petitioner.

3. Learned counsel for the petitioner during arguments has handed over reply dated 18.04.2015 of the State filed to the bail application before the Additional Sessions Judge, which be taken on record.

4. The case against the petitioner would be quite serious if the facts as mentioned in the reply are to be looked into. The victim in the instant case is Saraswati wife of Ravinder resident of village Kosli, who was pregnant by four months. During investigation of the case, Saraswati had made statement that she was suffering from typhoid and got herself treated from Jeevan Jyoti Hospital. She further stated that the petitioner had been administering her vaccination and the medicine. One day she suddenly started having abdominal pain and went to the petitioner who gave some injection. The patient had been administered injections 3 or 4 time in one week. Then petitioner told the victim on 12.02.2015 that some minor surgery has to be done. The petitioner received ₹ 8000/- as fee from husband of the victim and then took the patient and her husband to RSS hospital at Nahar road. At that hospital, the petitioner got the pregnancy terminated without the consent of the victim.

5. Information was received by Chief Medical Officer,

Rewari from PGIMS Rohtak and a team of doctors was constituted and raid was conducted at Jeevan Jyoti Hospital from where blood stained instruments meant for medical termination were recovered alongwith certain medicines.

6. If Section 5(4) of the Act of 1971 is not directly applicable, there is clear violation of provision of Section 4 of the said Act. Moreover, present is not merely a case under the Act of 1971 but also for attracting Sections 313 and 201 IPC and the offence under Section 313 IPC is punishable upto imprisonment for life. The patient had also made statement during investigation that after terminating the pregnancy in RSS Hospital the foetus was also thrown. The patient got herself admitted in PGIMS Rohtak where she had been getting treatment for about one month.

7. There is huge imbalance in the sex ratio in this part of the country especially in the State of Haryana and such kind of incidents have to be thoroughly investigated where the custodial interrogation of the petitioner would be necessary.

8. No merit. Dismissed.

May 01, 2015
jk

(R.P. NAGRATH)
JUDGE