

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

Date of Decision : 28.08.2015

1) C.R.M-M No.27254 of 2015

Harshpreet Kaur

..... Petitioner

Versus

State of Punjab

..... Respondent

2) C.R.M-M No.27287 of 2015

Jaspal Kaur

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. P.S. Dhaliwal, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, Addl.A.G., Punjab.

1. Whether Reporters of 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?

AJAY TEWARI, J. (Oral)

These are two petitions filed by the daughter-in-law and the mother-in-law under Section 438 Cr.P.C. for grant of anticipatory bail to them in case F.I.R. No.155 dated 18.06.2015 registered under Sections 312, 315, 316, 109, 120-B IPC and Section 15(2) of the Indian Medical Council

Act, 1956 at P.S. City Barnala, District Barnala. Both the petitions are decided by the common order since the facts are same.

The allegations are that when a raid was conducted at a so-called clinic, the person running the clinic was nabbed red handed while he was conducting a abortion of a female foetus of the petitioner-Harshpreet Kaur. As noticed on the last date, it was the contention of the learned counsel for the petitioner that it was not a case of aborting of a female foetus after determining her sex but a case where the petitioner-Harshpreet Kaur had actually fallen down and was brought to the clinic in the throes of miscarriage to try and save her and the foetus. Apart therefrom, learned counsel for the petitioners has argued that it cannot be denied that a mother or a grand-mother who are party to female foeticide are also to some extent the victims of a brutally anti female society. As per him, in case the petitioners are found guilty they would be liable to suffer whatever imprisonment is imposed upon them but in this case even the investigation is concluded and no purpose would be served by the custodial interrogation.

Learned Additional Advocate General has however pointed out that Section 315 IPC for which the petitioners have been charged is a very serious offence, more so because of the 2-3 decades old propensity in our society towards female foeticide (after the advent of early pre-natal sexual determination techniques). She has however fairly accepted that there is no further evidence which the police can hope to get from these petitioners after their custodial interrogation.

In the totality of circumstances mentioned above, I do not deem it appropriate to deny bail to the petitioners.

Resultantly, the petitions are allowed.

In the event of arrest of the petitioners, they shall be released on bail to the satisfaction of the Investigating Officer subject to the conditions envisaged under Section 438(2) Cr.P.C.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

August 28, 2015

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**(AJAY TEWARI)
JUDGE**