

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M No.40013 of 2015

Date of Decision:-12.01.2016

Deepa Aggarwal.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Bipan Ghai, Senior Advocate assisted by
Mr. R.S. Talwar, Advocate for the Petitioner.

Mr. K.S. Nalwa, Additional Advocate General, Punjab.

JASWANT SINGH, J.(ORAL)

Prayer is under Section 438 Cr.PC for grant of anticipatory bail to the petitioner Deepa Aggarwal in case FIR No.123 dated 30.07.2015 for offences punishable under Sections 465, 467, 468, 471, 420 of Indian Penal Code and under Sections 18, 19 and 20 of the Transplantation of Human Organs & Tissues Act, 1994 (for short the 1994 Act) registered with Police Station Division No.7, Jalandhar.

The petitioner is the 50% owner of the National Kidney Hospital, Jalandhar duly registered under the Transplantation of Human Organs & Tissues Act, 1994 for conduct of surgical operations for

transplantation of the human organs.

The allegations against the petitioner-accused and other co-accused is that they have conducted 07 surgical operations of Kidney Transplant without obtaining prior approval of the authorisation committee as envisaged under Sub Section 5 of Section 9 of the 1994 Act.

Learned Counsel for the petitioner submits that the allegations are totally false and fabricated. The said operations were conducted after completing all the required formalities under the 1994 Act. He further submits that since the donor in all the said operations were relatives and, therefore, no prior approval of the Authorisation Committee was required in the light of provisions of Sub Section 1 of Section 9 of the 1994 Act. The alleged Sub Section 5 is applicable in case of only if the donor is not a near relative. He further submits that as per the record there were proper documents including the affidavit showing that the donors were close relatives of the beneficiaries of the operations. He further submits that the petitioner has joined investigation and, if at all, the entire evidence is documentary, therefore, her custodial interrogation is no longer required. He further submits that even the rigors of Sub Section 3-A of Section 9 have been fully complied with by way of DNA reports in the record.

Learned State Counsel assisted by Mr. Amrik Singh, ADCP, City-II, Jalandhar submits that although petitioner has joined investigation, however, the complete records have not been furnished. Reliance was placed on alleged violation of provisions of Section 9(5) & 3(A) of 1994 Act to oppose the concession of pre-arrest bail.

The legal submission have been fully met by the counsel for the

petitioner. The factual aspects of the case are a matter of trial.

Without commenting on the merits of the case, keeping in view the facts of the case, interim protection/pre-arrest bail granted vide order dated 28th of November, 2015 is made absolute.

Petition stands disposed of.

**(JASWANT SINGH)
JUDGE**

January 12, 2016
Vinay