**Sr. No. 102**
**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

**CRM No. M-42119 of 2015**
**Date of Decision: 29.01.2016**

Prem Lata

...Petitioner

Versus

State of Haryana

... Respondent

**CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.**

Present:- Mr. Rajesh Bansal, Advocate,
for the petitioner.

Mr. Vivek Saini, DAG, Haryana.

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**TEJINDER SINGH DHINDSA. J (ORAL)**

This order shall dispose of the present petition filed under Section 438 Cr.P.C. seeking concession of pre-arrest bail to the petitioner in case FIR No.220 dated 26.11.2015, under Sections 420, 336, 417 of Indian Penal Code and Sections 3(A) 6(C) of Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, registered at Police Station Cheeka, District Kaithal.

While issuing notice of motion, the following order was passed by this Court on 18.12.2015:

> *"Allegations against the petitioner are serious. It is, however, contended before the Court that petitioner is 65 years old woman and is ready to fully cooperate with the investigating agency. Under the circumstances, one opportunity is granted to the petitioner to join investigation.*
>
> *Meanwhile, in the event of her arrest, the*

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*petitioner shall be released on bail to the satisfaction of arresting/investigating officer subject to the following conditions:-*

*i) She shall make himself available for interrogation by a police officer as and when required;*

*ii) She shall not directly or indirectly make any inducement*

*threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the court or to any police officer; and*

*iii) She shall not leave India without the previous permission of the Court.*

*In case, petitioner does not cooperate, the investigating agency shall be at liberty to seek her custodial interrogation on the next date of hearing.*

*Adjourned to 29.01.2016."*

Learned State counsel upon instructions from ASI Krishan Kumar, Police Station Cheeka, District Kaithal would apprise the Court that the petitioner has since joined investigation.

A two fold submission raised by the counsel appearing for the petitioner would require notice. Firstly, it has been contended that even as per prosecution version, the petitioner was caught red handed while selling a certain medicine by promising the customers that by consuming the same, only male child would be conceived. Counsel argues that even in the context of such allegation no offence would be made out under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (hereinafter referred to 'the Act'). The second submission raised by counsel is that as per Section 28 of the Act, no cognizance can be taken except on a complaint made in writing by a duly notified officer

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and which is not the case herein and as such the FIR could not even have been registered.

In an overview of the matter, the petitioner is held entitled to the concession of anticipatory bail.

Petition is allowed. Order dated 18.12.2015, passed by this Court, is made absolute.

Disposed of.

**29.01.2016** **(TEJINDER SINGH DHINDSA)**
vandana **JUDGE**

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