

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-43469 of 2015

Date of Decision: February 24, 2016

Balwinder Kaur

.....Petitioners

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

-. -

Present:- Mr. S.S. Chadha, Advocate
for the petitioner.

Ms. H.K. Athwal, DAG, Punjab.

-. -

M.M.S. BEDI, J. (ORAL)

This is second petition for grant of pre-arrest bail filed by the petitioner. As per the story of prosecution a case was registered at the instance of Civil Surgeon, Hoshiarpur. The allegation against the petitioner is that she, on receipt of sum of Rs.7000/- from Meenakshi, has undertaken the job of her abortion.

Petitioner approached the Sessions Court for grant of pre-arrest bail claiming that the alleged victim Meenakshi had furnished an affidavit to the effect that on account of overdose of medicine she had suffered the

misery giving a clean chit to the petitioner. Her pre-arrest bail application was dismissed. Petitioner had approached this Court for pre-arrest bail which was dismissed on April 4, 2014 by this Court.

This is second petition for seeking concession of pre-arrest bail relying upon the same old affidavit of Meenakshi dated January 15, 2014.

The petitioner had approached this Court for quashing of the FIR on the ground that challan had not been presented and that the complainant had voluntarily stated that petitioner was not responsible for her abortion. Said petition for quashing was dismissed on September 30, 2014 without prejudice to the rights of the investigating agency to record statements of any person under Section 163 (2) Cr.P.C. tendered voluntarily. The petitioner subsequently filed another petition for quashing of FIR bearing CRM M-11981 of 2015 on the ground that the complainant Meenakshi had made a statement before the police that she did not want to take any legal action against any person and that her earlier statement was recorded while she was unconscious/ semi- conscious. The said petition appears to have been withdrawn by the petitioner on August 24, 2015 vide annexure P-10. In view of the above said circumstances, the petitioner has approached this Court for grant of pre-arrest bail.

Counsel for the petitioner has submitted that the prosecutrix Meenakshi had earlier furnished an affidavit and have now made a statement to the police that since she consumed some medicines voluntarily after purchasing the same from medical store on account of excessive bleeding,

she was unconscious. The statement alleged to have been given by her earlier was rendered while she was not fully conscious.

I have considered the contentions of learned counsel for the petitioner. The petitioner has been relying upon the statement and affidavit of Meenakshi @ Pooja who had undergone abortion with the help of petitioner. The FIR in the present case had not been registered at the instance of Meenakshi but the same was registered at the instance of authorized person i.e. Civil Surgeon, Hoshiarpur, on the information supplied to him on the basis of statement dated March 28, 2012 of Meenakshi that she had paid a sum of Rs.7000/- to abort her two months pregnancy by visiting the house of the petitioner at Banga Chowk at Garhshankar and that the petitioner was working at Government Hospital. She appears to have resiled from her statement.

I have considered all the facts and circumstances of the case in context to the objective of introduction of Preconception and Prenatal Diagnostics Techniques (Prohibition of Sex Selection) Act, 1994. The said Act was made to prevent the abuse of techniques considering the same to be discriminatory against the female sex affecting the dignity of the woman. The case was registered against the petitioner on the basis of an incident of March 7, 2012. Petition of petitioner for pre-arrest bail was dismissed by this Court on April 4, 2014. The victim appears to have been won-over by the petitioner by misusing her right of personal liberty. The circumstance of victim having been won-over may help the petitioner for seeking regular bail

but no extraordinary exceptional circumstances exist to entertain the second petition for grant of pre-arrest bail filed by the petitioner.

The petition is dismissed without prejudice to the rights of the petitioner to seek concession of regular bail in accordance with law. Nothing said in this order will effect the adjudication of any application filed by the petitioner for regular bail.

February 24, 2016
sanjay

(M.M.S.BEDI)
JUDGE