

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

**CRL. MISC. No.M-8234 OF 2016  
DATE OF DECISION : 7<sup>th</sup> DECEMBER, 2016**

**Surinder Kaur**

**.... Petitioner**

**Versus**

**State of Haryana**

**.... Respondent**

**CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI**

\* \* \* \*

Present : Mr. Abhinav Gupta, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

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**A. B. CHAUDHARI, J. (ORAL)**

The petitioner has filed this petition under Section 438 Cr.P.C. seeking anticipatory bail in FIR No.33 dated 17.02.2016 registered under Sections 3/4/5 of Medical Termination of Pregnancy Act, 1971 (in short, the MTP Act) at Police Station Jakhal, District Fatehabad.

Heard learned counsel for the rival parties.

Learned counsel for the petitioner has invited my attention to the interim order made by this Court on 14.03.2016 and submits that the petitioner is a 60 years old lady and the allegations made by the prosecution that DNC procedure was conducted, is false and baseless and, therefore, no offence has been committed by the petitioner under Sections 3/4/5 of the MTP Act, as it is not defined. He, therefore, submits that the petitioner has made prima facie case for grant of

anticipatory bail. He has referred to the decision in the case of ***Dr. Vandana Malik versus State of Haryana, 2014(5) Law Herald 4405*** and submitted that the said judgment clearly holds that there should be evidence of actual conduct of termination of pregnancy.

On the contrary, learned State counsel contended that the petitioner's husband is a Doctor while the petitioner is a qualified nurse. Investigator has collected a certificate that she is nurse. He further submits by showing photograph of the board affixed on the hospital of her husband. I have seen the photograph of the said board which clearly shows name of her husband as Dr. Bhupiner Singh and Dr. Surinder Kaur. He therefore submits that the petitioner has thus been misleading the society that the petitioner is a Doctor. Learned counsel for the State then contended that the decoy patient was pregnant by six weeks and DNC was actually performed by the petitioner with her husband, which the law prohibits. He further submits that as a result of performance of DNC on her there was heavy bleeding and she was got admitted to other hospital for treatment.

Upon hearing learned counsel for the rival parties, at the outset, I find that there is strong evidence against the petitioner that she along with her husband who is a Doctor, has put her name as Doctor on the board of the hospital. It is very simple for the petitioner being described as Doctor but in my opinion it is a very serious offence against the society that the petitioner has shown herself as Doctor on the board of the hospital. The damage which can be caused to the society and its members cannot be gauged as the petitioner has shown herself as a Doctor. It is high time not to take such offences in a casual manner. As a

matter of fact the ultimate sufferer is the patient or the member of the society for a petty gain perceived by the persons like the petitioner. The respondent-State has not registered any case under Section 416 IPC for cheating by impersonation against the petitioner and her husband who is also obviously, prima facie, guilty of abetment of the offences registered against the petitioner. But since the husband has not been made accused this court refrains from saying anything further. The judgment cited by learned counsel for the petitioner is not applicable on the facts of the case.

Looking to the material collected during the investigation as stated by the learned State counsel it is clear that the petitioner, a nurse has been pretending herself as a Doctor and misleading the society. She also performed the test which she is not entitled to do. The counsel for the petitioner cannot and did not refute the prima facie evidence, that is, the photographs shown by the Investigating Officer, in which the display board shows her as 'Doctor' when she is a nurse. The husband of the petitioner is a qualified doctor and it was his responsibility and duty not to allow his nurse wife to describe herself as 'Doctor' with him. On the contrary, it appeal that he encouraged her. This shows the fall of moral standards in the society. Be that as it may, there is strong prima facie evidence against the petitioner.

At this stage, learned counsel for the petitioner has made a prayer for withdrawal of the petition. However, the withdrawal of the petition cannot be allowed, since this Court has dealt with the matter on merits.

In view of the above, interim order dated 14.03.2016 passed by this court is vacated. The petition is dismissed.

7<sup>th</sup> DECEMBER, 2016  
'raj'

(A. B. CHAUDHARI)  
JUDGE

Whether speaking/reasoned:                      **Yes**                      *No*

Whether Reportable:                                      **Yes**                      *No*