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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 2354/2016**

MAMTA

..... Petitioner

Through :Mr. Manoj Ohri, Sr. Advocate with
Mr. Mukesh Birla and Mr. Anil
Babbar, Advs.

versus

STATE (NCT OF DELHI)

..... Respondent

Through :Dr. M.P. Singh, APP with SI Raj
Kumar, P.S. Neb Sarai

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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18.11.2016

Crl.M.A. No. 17925/2016 (Exemption)

Allowed, subject to all just exceptions.

Application is disposed of.

BAIL APPLN. No. 2354/2016

Petitioner seeks anticipatory bail in the FIR No. 301/2016 under Sections 498-A/406/34 IPC registered at Police Station Neb Sarai on the complaint of Ms. Dimple. Learned Senior Counsel for the petitioner submits that Section 313 IPC has been included in the FIR subsequently. He submits that petitioner is not related to the husband of the complainant. As

per the allegations in the FIR, husband of the complainant had disclosed the complainant that petitioner was his wife. As per the complainant, her husband compelled her to talk to petitioner and during the conversation petitioner disclosed that she had forced the complainant's husband and her in-laws for abortion by administering certain medicines to her during the pregnancy, resulting in miscarriage. Learned Senior Counsel submits that only allegation against the petitioner is under Section 313 IPC for assisting the complainant's husband and her in-laws in providing medicines to them, which they gave to the complainant. He further submits that no medical record of any hospital was produced regarding the termination of pregnancy. During the investigation, opinion of Dr. Juhi Bharti of AIIMS hospital was taken and as per the doctor's opinion, cause of abortion was "incompetent OS". He has further contended that as per the medical dictionary, "incompetent OS" means uterine cervix that cannot maintain a diameter sufficient enough to support the increasing weight of fetus. This condition usually results in early second trimester abortion. He further submits that the husband and in-laws of the complainant have already been granted regular bail.

Learned APP submits that the husband of complainant, in his

disclosure statement, has stated that medicines were provided by the petitioner. He submits that custodial interrogation of petitioner is required to find out the composition of medicine, which petitioner had provided to the complainant's husband. He further submits that allegations are serious in nature therefore petitioner may not be granted anticipatory bail. However, report of the AIIMS hospital has not been disputed, wherein the doctor has opined, thus, "After complete history taking and investigation, the way of presentation indicates incompetent OS."

Keeping in mind the totality of above facts and circumstances, it is ordered that in case of arrest, petitioner be released on anticipatory bail subject to her furnishing a personal bond in the sum of ₹25,000/-(Rupees Twenty Five Thousand Only) with one surety of the like amount to the satisfaction of the Investigating Officer/Arresting Officer/SHO concerned. Bail application is disposed of in the above terms. Dasti.

A.K. PATHAK, J.

NOVEMBER 18, 2016

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