

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

209

CRM-M NO.17727 OF 2018

DATE OF DECISION: MAY 10, 2018

Shifa Aabid.

.....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI

**Present: Mr. Karambir Singh Nalwa, Advocate,
for the petitioner.**

**Mr. Sharad Yadav, DAG, Haryana,
for the State.**

AUGUSTINE GEORGE MASI, J. (ORAL)

The petitioner has filed the present petition for grant of regular bail in case FIR No.486, dated 05.07.2017, registered under Sections 3, 4 and 5 of the Medical Termination of Pregnancy Act, 1971 (for short, “the 1971 Act”), at Police Station Nuh, District Nuh.

It is the contention of learned counsel for the petitioner that the petitioner has been falsely implicated in this case. She is not named in the FIR, although it is alleged that Neelam is the name of the petitioner, which she denies. Counsel for the petitioner, however, contends that even going by the allegations in the FIR, it would be an offence under Section 5 (3) of the 1971 Act alongwith Section 511 IPC as it could at the most be said to be an attempt to commit an offence as is provided for under Section 5 (3) of the 1971 Act. Assertion has also been made that as a matter of fact what is asserted in the FIR is that Rehana, the alleged patient was 29 weeks pregnant and she had given birth to a child on 08.07.2017, which would be 32 weeks and that too a male child. He further states that the petitioner is in

custody since 28.03.2018 and has a 14 months old infant baby girl and, therefore, concession of regular bail be granted to the petitioner.

Counsel for the State, on instructions from ASI Aabid Hussain, Police Station Nuh, District Nuh, submits that challan is almost complete and will be submitted in a short while. He further contends that from the premises, which is on rent with the petitioner and her husband, is being run as a Clinic, where these illegal activities are being carried out and the petitioner does not have proper authorization under the 1971 Act. The instruments and medicines meant for the purpose of medically termination of pregnancy have been recovered from the said Clinic and, therefore, the petitioner be not granted the concession of bail, as prayed for. However, he could not dispute the factum regarding the petitioner having an infant girl child of 14 months.

Having considered the submissions made by counsel for the parties and keeping in view the assertions made by counsel for the petitioner with special reference to the fact that the petitioner has a child to suckle, the present petition is allowed. The petitioner is directed to be released on bail on her furnishing personal and surety bonds to the satisfaction of Trial Court/Chief Judicial Magistrate/Duty Magistrate, Nuh.

Any observation made herein above shall have no bearing on the merits of the case during the trial in any manner.

May 10, 2018
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No