

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

CRM-M-30015 of 2018.

Decided on:-July 19, 2018.

Geeta.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Pankaj Mehta, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 438 Cr.PC for grant of anticipatory bail in FIR No.389 dated 08.07.2018 under Section 18(A) and 18(C) of the Drugs and Cosmetics Act, 1940, Sections 15(2) and 15(3) of the Indian Medical Council Act, 1956, Sections 3, 4 and 5 of the Medical Termination of Pregnancy Act, 1971 as well as Section 420 IPC registered at Police Station City Fatehabad.

The aforesaid FIR was registered against the petitioner at the behest of Additional Senior Medical Officer. The allegation against the petitioner is that she was found indulged in carrying an illegal abortion. She is working as an Asha worker in Health Department.

Counsel for the petitioner has argued that for the offence under Sections 18(A) and 18(C) of the Drugs and Cosmetics Act, 1940, FIR cannot

be registered against the petitioner as these Sections are not covered under the category of cognizable offence as per the Drugs and Cosmetics Act, 1940. Only a Drug Inspector can file a complaint under Section 21 of the Drugs and Cosmetics Act, 1940.

He has further argued that there was no patient who was being allegedly examined by the petitioner. The petitioner never prescribed any medicine to anyone for any ailment. She has never claimed herself to be a doctor. There is no direct allegation of cheating against the petitioner and there is no material against her. In the absence of any specific role attributed to the petitioner, she is entitled to the relief of anticipatory bail. Similarly, the allegations levelled under Sections 3, 4 and 5 of the Medical Termination of Pregnancy Act, 1971 are not attracted. Under these Sections, no case is made out against the petitioner. The Medical Termination of Pregnancy Act, 1971 was enacted with a view to terminate pregnancy with some exceptions. The Medical Termination of Pregnancy Act, 1971 gives exceptions which have been made punishable under Chapter XVI of the Indian Penal Code relating to miscarriage/abortion. There is no independent corroboration in the prosecution case.

I have heard learned counsel for the petitioner.

In the case in hand, Civil Surgeon had constituted a team consisting of three doctors i.e. Dr. Sunita Sokhi, Deputy Civil Surgeon, Fatehabad, Dr. Girish Kumar, Nodal Officer (PNDT), Fatehabad and Dr. Kuldeep Chaudhary, Medical Officer (PNDT), Fatehabad. A decoy patient, namely, Sameer Kumar was sent to the petitioner to get medicine for

abortion. Sameer Kumar had paid Rs.1500/- on reaching her house and remaining amount of Rs.1000/- was to be given on supply of Kit. On 04.07.2018, on receipt of message from the petitioner, decoy patient Sameer Kumar went to her house to take abortion pills and after receiving the remaining amount of Rs.1,000/-, the petitioner gave 5 tablets of white colour and had detailed the method to consume the medicine. The allegations levelled against the petitioner are serious in nature and need to be looked into, which is possible only by interrogating her. Therefore, this Court finds that no ground for grant of anticipatory bail to the petitioner is made out.

Accordingly, the present petition, being devoid of any merit, is dismissed.

July 19, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No