

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

CRM-M No.54255 of 2018 (O&M)

Decided on: 13.12.2018

Nirmala Devi @ Janak Rani

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Vinay Kumar, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.249 dated 12.11.2018, for offence punishable under Sections 23 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 and 420, 120-B of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station City Batala, District Gurdaspur.

Counsel for the petitioner has submitted that as per the allegations in the FIR, the District Appropriate Authority on receiving a secret information through a decoy patient that sex determination test is going to be conducted in Batala by Dr. Kamal Kishore in Batala Hospital and the petitioner is working as a conduit, a raid was conducted and the petitioner was arrested and on her disclosure statement, it came that on 10.11.2018, she had demanded Rs.22,000/- and had a talk with one co-accused Hari Om of Batala Hospital for

conducting the sex determination test on 12.11.2018.

Counsel for the petitioner has further submitted that no offence is made out against the petitioner under Sections 420/120-B IPC and for violation of the provisions of Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, the District Appropriate Authority has to file a complaint before the competent Court of law and it will be a debatable issue whether the FIR is maintainable or not.

Counsel for the petitioner has further argued that the co-accused Surinder Pal and Hari Om Sharma have already been granted the concession of regular bail by the Additional Sessions Judge vide order dated 06.12.2018. It is also submitted that the petitioner is an old lady aged about 72 years and she is not involved in any other case and is in custody since 14.11.2018.

Counsel for the State, on instructions from HC Surinder Singh and on the basis of the Custody Certificate filed in the Court today has not disputed the factual position, however, opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in judicial custody since 14.11.2018; the co-accused of the petitioner namely Surinder Pal and Hari Om Sharma have already been granted the concession of regular bail by the Additional Sessions Judge vide order dated 06.12.2018; she is not involved in any other case and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to her furnishing bail/surety bonds, to the

satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case she is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

13.12.2018
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No