

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-5542 of 2019

Date of Decision: 14.02.2019

Dr. Nisha Dhankhar

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. Sumit Sangwan, Advocate
for the petitioner.

Ms. Mahima Yashpal, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner in case FIR No.462 dated 06.12.2018 under Sections 3, 4 and 5 of the Medical Termination of Pregnancy Act, 1971, Sections 18 and 27 of the Drugs and Cosmetics Act, Sections 15(2) and 15(3) of the Indian Medical Council Act, Sections 312, 315, 420 and 511 IPC and Section 120-B IPC (added later on) registered at Police Station Dadri City, District Charkhi Dadri.

The aforesaid FIR was registered on the basis of complaint made by Dr. Narender Singh, Nodal Officer PNDDT, Dadri City, Charkhi Dadri, Haryana on 06.12.2018, as per the order of Civil Surgeon, Dadri.

The Civil Surgeon had received secret complaint regarding illegal Medical Termination of Pregnancy (MTP) being carried out in the centre. Pursuant

to which, a decoy patient along with shadow witness was sent by a team to M/s Dhankhar Health Care Centre, which is owned by the petitioner. Mrs. Bimla Devi, co-accused of the petitioner was found present in the hospital and she demanded Rs.4,000/- for doing illegal MTP, which were given to her by the shadow witness. Thereafter, Bimla Devi started the process of medical termination of pregnancy. The shadow witness gave a signal to the raiding party and as a result thereof, the raiding party entered the hospital and searched the premises and recovered 14 instruments, which were being used for illegal medical termination of pregnancy by Bimla Devi. The instruments were taken into custody. Before reaching of the raiding party, Bimla Devi had already given the injection and oral tablets to the decoy patient for illegal abortion. The team also recovered two Indian currency notes of Rs.2,000/- each from her purse, which were signed/marked and given to the decoy patient before the raiding operation.

Learned counsel for the petitioner has argued that it is after 1½ month from the date of raid, the petitioner has been named as an accused. The petitioner has no direct or active role in the incident. It is only with the aid of Section 120-B IPC, the petitioner has been arrayed as an accused and that too, at a later stage. Custodial interrogation of the petitioner is, therefore, not required in the case. Moreover, the co-accused Bimla Devi has already been admitted on bail. He has further argued that even though the petitioner has been arrayed as an accused in this case with the aid of Section 120-B IPC, but her involvement is yet to be established during the course of trial by the prosecution by leading evidences.

Learned State counsel states that the petitioner is virtually the main accused, being the owner of the health care centre. During investigation, it was transpired that at the time when the decoy patient was being administered the tablets/injections, the other co-accused Bimla Devi had telephonically consulted the petitioner for the money to be charged in the case and it is only on the direction of the petitioner, Rs.4,000/- were charged by Bimla Devi. Further, Bimla Devi is none else than the real mother-in-law of the petitioner.

I have heard learned counsel for the parties.

The plea on behalf of the petitioner that he has been arrayed as an accused with the aid of Section 120-B IPC, is not relevant at this stage, particularly when the health care centre is registered in the name of petitioner herself. In fact, the petitioner is the person who is running the hospital, though at the relevant time, she was physically not present in the health care centre. Interestingly, Bimla Devi is the real mother-in-law of the petitioner. Therefore, the petitioner cannot take advantage of her not being present in the centre at the time of raid.

Therefore, this Court finds that the petitioner certainly was in the knowledge of the illegal procedures being carried out by Bimla Devi in her health care centre.

Thus, no ground for anticipatory bail is made out.

Dismissed.

February 14, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No