

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

**CRWP No.4811-2020
Date of Decision:-10.08.2020**

Pooja

...Petitioner

Versus

State of U.T. Chandigarh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Robin Singh Hooda, Advocate
for the petitioner.

Mr. Rajiv Vij, Addl. P.P. For UT Chandigarh.

JASGURPREET SINGH PURI J.(Oral)

The present criminal writ petition has been filed under Section 482 Cr.P.C. with a prayer to grant parole to the petitioner on the ground of pregnancy.

On the last date of hearing, the counsel for UT Chandigarh was directed to get the petitioner examined and inform her correct date of delivery within a week.

Today Shri Rajiv Vij, learned Additional Public Prosecutor, UT Chandigarh has informed that the petitioner has already delivered a male child on 06.8.2020 and is now admitted in Government Medical College and Hospital, Sector 32, Chandigarh. Learned counsel for the UT Chandigarh has further submitted that the present application for grant of

parole of the petitioner is not maintainable in view of the fact that the petitioner is still undertrial and therefore, the present petition is defective in nature.

Shri R.S. Hooda, learned counsel for the petitioner has pointed out that notwithstanding the fact that the petition was for grant of parole but the High Court can always in extraordinary circumstances and while exercising extraordinary jurisdiction mould the relief in this regard. Still the learned counsel for the petitioner has stated that he may be permitted to withdraw the present petition in order to file the appropriate petition for grant of regular/interim bail in accordance with law and has further prayed that in the meantime he may be protected to the extent that the petitioner may not be discharged from the hospital for at least for another period of one week so that in the meantime the appropriate application may be filed by him in accordance with law.

I have heard learned counsel for the parties through vide conferencing.

It is admitted position that the petitioner is an undertrial lady and she has delivered a male child on 06.8.2020 which according to learned counsel for the petitioner was a premature born baby and although the mother and child are in a delicate state of affairs, the learned counsel for the petitioner has himself prayed that he may be permitted to withdraw the present petition as there was technical difficulty in the petition so that he may file appropriate petition in order to protect both the mother and child from the probable effect of Covid-19, which is expanding on large scale in the Union Territory, Chandigarh as of today. It is a settled law that

technacilities do not come into play when there is need to grant substantial justice to the parties. Procedure is only a hand made justice. However, since learned counsel for the petitioner himself made a prayer for withdrawal of the present petition as the same being defective in order to enable him to file appropriate petition in accordance with law. I deem it fit and appropriate to accept the prayer of counsel for the petitioner regarding withdrawal of the present petition so that he can file an appropriate petition in accordance with law at the earliest so that the same may be considered by this Court.

It is, therefore, directed that the present petition is dismissed as withdrawn to enable the petitioner to file appropriate petition. It is further directed that in the meantime, the petitioner and her new born baby shall not be discharged from the Government Medical College and Hospital, Sector 32, Chandigarh for the next ten days. However, in case the petitioner has already been discharged, then she may be brought back to the hospital in order to restrict the exposure of Covid 19 infection.

Disposed of accordingly.

A copy of this order be handed over to learned counsel for the petitioner under the signature of the Court Secretary of this Court.

August 10, 2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No