

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

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CRM-M-20161-2020.

Date of Decision: 14.09.2020.

Daljit Kaur alias Bholi

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Veneet Sharma, Advocate for petitioner.

Mr. Joginder Pal Ratra, Deputy Advocate General, Punjab.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This 2nd petition under Section 439 Cr.P.C is for grant of regular bail to petitioner-**Daljit Kaur alias Bholi** in case FIR No.35 dated 23.03.2019 under Sections 316 and 506 IPC read with Section 34 IPC, registered at Police Station Ramdas, Amritsar Rural, District Amritsar.

Learned counsel for the petitioner *inter alia* contends that petitioner has no nexus whatsoever with the alleged offence. He further urges that allegedly victim was given kick blows which resulted in her miscarriage. He further urges that Kawalpreet Kaur, daughter-in-law of petitioner, was pregnant and on 17.02.2019 she started bleeding and was admitted in the Civil Hospital, Ajnala on 17.02.2019 and she suffered 'Spontaneous Abortion' for which ultrasound examinations were carried out and she was discharged on 22.02.2019. He further urges that complainant or her family members did not approach anyone as it was a case of

examined on 06.03.2019 and according to medico-legal report, no external injury was visible on her body. He further urges that in terms of Admission Record and Annexure R/1 i.e. opinion rendered by Medical Officer, Civil Hospital, Ajnala, patient-Kawalpreet Kaur came to emergency on 17.02.2019 with history of amenorrhea-two months and bleeding per vaginum and passage clots for one day and further opined that there is fetus formation after eight-ten weeks of pregnancy and since patient came with profuse bleeding per vaginum, she was in the process of 'Spontaneous Abortion' and further as per USG reports dated 18.02.2019 and 20.02.2019, there were few retained products of conception for which sampling was not done. He further urges that as opined by Medical Officer vide report Annexure R/1, patient-Kawalpreet Kaur was not medico-legally examined on 17.02.2019 as she came with chief complaint of bleeding per vaginum and was admitted for treatment only and further as per that opinion above said patient was medico-legally examined on 06.03.2019 and at that time there was no external injury on her body. He further urges that once there was no external mark of injury on the person of complainant and especially the fact that she did not give any history of beating etc. to the examining doctor on 17.02.2019 and the fact that there was inordinate delay of about 34 days in registration of FIR, these facts lead to irresistible conclusion that there was no iota of truth in the allegations as levelled in the FIR, whereas since it was a case of fetus formation after eight-ten weeks of pregnancy and complainant came with profuse bleeding per vaginum and in the process of 'Spontaneous Abortion', as a matter of fact, above said unfortunate incident is to be termed as 'early pregnancy loss'.

Learned counsel for petitioner while referring to work by the American College of Obstetricians and Gynecologists submits that loss of pregnancy during the first thirteen weeks of pregnancy (the first trimester) is called early pregnancy loss, miscarriage or spontaneous abortion and early pregnancy loss is common and it happens in about 10% of known pregnancies. He further urges that in a given scenario, instant case of complainant may be termed as on account of natural 'early pregnancy loss' but not on account of any alleged incident as narrated in the FIR.

Learned counsel for the petitioner further submits that that petitioner is in custody since 12.07.2019 and she is no more required by the Police for any investigation purpose. He further urges that after presentation challan, trial has already commenced and since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and she may be released on bail.

On the other hand, learned State counsel while opposing instant petition has vehemently argued that keeping in view seriousness of offence, petitioner does not deserve the concession of bail.

I have heard learned counsel for the parties and have carefully gone through the documents placed on record at the instance of petitioner and reply furnished at the instance of respondent-State.

At this stage, without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that petitioner is in custody since 12.07.2019; that petitioner is no more required by the Investigating Agency for investigation purpose; that challan has already been presented in Court and since consequent trial of the case would take sufficient time to conclude, no

useful purpose would be served by detaining the petitioner in custody further, thus, she deserves the concession of bail.

In view of above, instant petition for grant of regular bail moved by petitioner-**Daljit Kaur alias Bholi** is allowed and she is ordered to be released on bail on her furnishing personal/surety bonds to the satisfaction of Trial Court/ Chief Judicial Magistrate/Duty Magistrate, Amritsar, as the case may be.

(LALIT BATRA)
JUDGE

14.09.2020

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No