

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 16.12.2021

1. CRM-M-45898-2021 (O&M)

Shivani @ Sunita

... Petitioner

Vs.

State of Haryana

... Respondent

2. CRM-M-47119-2021 (O&M)

Salim

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sachin Mittal, Advocate
for the petitioner (in CRM-M-45898-2021).

Mr. Chajju Khan, Advocate
for the petitioner (in CRM-M-47119-2021).

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in both these petitions is for grant of regular bail to petitioners Shivani @ Sunita and Salim, in FIR No.618 dated 25.09.2021 under Sections 3, 4, 5 of Medical Termination of Pregnancy Act, 1971, Sections 18-A, 18-B, 18-C of Drugs and Cosmetics Act, Section 15(2)(B) of Indian Medical Council Act and Sections 120-B, 336, 420 IPC, registered at Police Station Sector-10, Gurugram.

Learned counsel for the petitioners submit that in the FIR registered on a complaint given by Deputy Civil Surgeon, PNDDT, Gurugram, it is stated that a secret information was received that one quack Dr. Mohammed Saleem is practising at M/s Sahara Medicos and Clinic, A-94, Saraswati Enclave, Village Kadipur, Gurugram and is running illegal business of medical termination of pregnancy and is providing MTP kits to abort the foetus of pregnant ladies and is endangering their lives. Co-accused/petitioner Shivani @ Sunita is helping him in the business and they are charging Rs.1000/- to Rs.1100/- per kit. On the basis of such information, a team was constituted and a decoy customer Manisha (a pregnant lady) and one Surender, to act as her husband, were sent to M/s Sahara Medicos and Clinic, where the decoy customer paid Rs.1050/- and informed that she do not want to continue with her pregnancy and needs medicine for abortion. On this, petitioner Shivani @ Sunita provided a MTP kit to decoy customer Manisha. Later on, the team came

at the spot and arrested both the petitioners.

Learned counsel for petitioner Shivani has submitted that the petitioner is a girl aged about 24 years and was only an employee in M/s Sahara Medicos and Clinic, which is run by co-accused; she is in custody since 25.09.2021 and is first offender. It is further submitted that it will be a matter of trial whether the offence under Section 4 of MTP Act is made out against the petitioner, as primary allegations against her are that co-accused Salim is working as a quack and the investigation is complete.

Learned counsel for petitioner Salim has submitted that the petitioner is having a licence under the Drugs and Cosmetics Act for running M/s Sahara Medicos and Clinic, therefore, no offence is made out against him.

Status report by way of affidavit of Assistant Commissioner of Police, City, Gurugram, filed in the Court today, is taken on record, in which after giving details of the FIR, it is stated that when decoy customer Manisha reached the shop of petitioner Salim, she gave Rs.1050/- to petitioner Shivani @ Sunita, who further asked him to give her a MTP kit and thereafter, petitioner Salim handed over a MTP kit to Manisha (decoy customer) and also told her how to administrate the MTP kit for abortion of pregnancy.

Learned State counsel has submitted that the raiding team asked petitioner Salim to disclose his medical qualification, on the basis of which he is providing MTP kit during treatment of a lady, on which he disclosed that he is not having any medical qualification and he has passed just 12th class and M/s Sahara Medicos and Clinic is registered under the Drugs and Cosmetics Act and

he is registered proprietor of this medicos and one Asif son of Sahar Khan is registered Pharmacist at his clinic. When the team asked about Asif, petitioner Salim informed that he is not coming to the clinic for the last five days. In the said clinic, no drugs and cosmetics licence was displayed and no bill book was available. When the team asked Salim to show the bills of purchase and distribution of the recovered MTP kit, he failed to show any record. When the source of acquiring MTP kit was asked, petitioner Salim disclosed that he had purchased it from Bhagirath Place, Delhi and further disclosed that he is the administrator of M/s Sahara Medicos and Clinic, where a doctor is treating the pregnant ladies. The team also collected the relevant documents like Paytm scanner, registers, prescription slips. The allopathic medicines and instruments, recovered from the said clinic, were also concealed in the plastic container. Thereafter, the present FIR was registered. It is lastly argued that petitioner Salim is mastermind of the entire episode.

Without commenting anything on merits of the case and after going through the allegations in the FIR as well as the affidavit of ACP, I find that it is a case where concession of regular bail can be granted to petitioner Shivani @ Sunita, who is a young lady aged about 24 years and was only working with the main accused/petitioner Salim, however, considering the serious allegations against petitioner Salim, as stated in the affidavit of ACP, I find no ground to grant him the concession of regular bail.

Accordingly, CRM-M-45898-2021, filed by petitioner Shivani @ Sunita, is allowed and she is directed to be released on regular bail subject to

furnishing her bail/surety bonds to the satisfaction of the trial Court/Illaq
Magistrate/Duty Magistrate, concerned, however, CRM-M-47119-2021, filed
by petitioner Salim, is dismissed.

Both the aforesaid petitions are disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

16.12.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No