

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

221

CRM-M-326-2022

Date of Decision: 6th April, 2022

Shobha Rani

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajbir Singh, Advocate for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

AVNEESH JHINGAN, J (Oral):

This is a third petition seeking regular bail to the petitioner in case of FIR No. 120 dated 24.12.2020 under Sections 3A, 3B, 5, 6, 23, 25, Rule 3-A (1) of the Pre-Conception & Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, under Sections 420, 120-B, IPC, 1860 (later on added offence under Section 15(2) of Indian Medical Council Act, 1956 ('for short the Act')) at P.S. Daba, District Ludhiana.

The first bail was dismissed by a reasoned order dated 28.1.2021, the second petition was dismissed as withdrawn with liberty to approach the Sessions Court to show the change in circumstances, after dismissal of the earlier petition.

A complaint was received from Chairman, District Operative Authority-cum-Civil Surgeon, Ludhiana. A raid was conducted at Shobha Nursing Care ST No. 1/4 Guru Nanak Nagar, Daba Lohara Road at Ludhiana. A decoy patient, namely, Paramjit Kaur having 16 weeks

pregnancy was taken to the nursing home, Shobha Rani demanded Rs.35,000/- for conducting gender test. After receiving the amount, an outside person was called to conduct the gender test. The serial numbers of currency notes given to Shobha Rani were noted down by Hisar Team. On having suspicion, the person who came to the nursing home for conducting the test fled away leaving behind the Ultra Sound machine and white colour Creta car bearing registration No. PB-10HE-5219

Learned counsel for the petitioner submits that the petitioner was not only owning the nursing home but she is a midwife. The scan was to be conducted by the doctor. The petitioner is in custody since 24.12.2020. She is 62 years old lady and having medical problems. She is suffering from eye problem for which immediately surgery is needed. He further submits that after dismissal of the earlier petition, challan was presented in which Section 420 IPC was deleted and no charge under Section 15 (2) of the Act was framed. He argues that as per the final report, the petitioner had not to conduct the test, it was to be done by a Radiologist but no scan was conducted.

Learned State Counsel opposes the prayer and submits that the petitioner was apprehended from the spot and she interacted with the decoy customer and received the amount.

Without commenting on the merits of case and considering the petitioner is in custody since 23.12.2020, she has no criminal antecedents, the investigation is complete, Section 420 IPC was deleted in challan, she has not been charged under Section 15 (2) of the Act, the prosecution witnesses are mainly official witnesses there is no apprehension of

petitioner influencing the witnesses, considering her age, medical condition, the petitioner is granted bail subject to her furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[AVNEESH JHINGAN]
JUDGE

6th April, 2022
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 1. Whether reportable | : | Yes / No |