

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-3279-2022 (O&M)
Date of Decision:-26.7.2022

Dr. Shelly Goyal

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jasdev Singh Mehndiratta, Advocate for the petitioner.

Mr. Rahul Mohan, DAG, Haryana.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of anticipatory bail in respect of a case registered against her vide FIR No.473 dated 25.11.2021 at Police Station City Jagadhri, District Yamuna Nagar, under Sections 420, 120-B of Indian Penal Code, Sections 3-A, 4, 6, 23, 25, 29 of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and Rule 9 of PC & PNDT Rules, 1996.
2. At the time of issuance of notice of motion, a Co-ordinate Bench had passed the following order on 27.1.2022:

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of 'pre-arrest bail' upon FIR No. 473 having been registered at Police Station

City Jagadhri, District Yamuna Nagar, on 25.11.2021, alleging therein the commission of offences punishable under the provisions of Sections 420/120-B of the IPC, Sections 3-A/4/6/23/25/29 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and Rule 9 of the PC&PNDT Rules, 1996.

Learned counsel for the petitioner submits that the petitioner does not deny having conducted an ultrasound scan/test on the lady mentioned as a decoy in the FIR, i.e. Pooja Rani, but that all necessary forms as were required to be filled in, even in terms of the PC&PNDT Act, 1994, were duly filled in even as per the FIR.

He submits that there being no bar on conducting such a test after such formalities are complete, she is only sought to be arraigned as an accused on the allegations that, firstly, two persons of her hospital allegedly disclosed orally to the decoy customer at the bus stand after the ultrasound test, that the fetus was of a female; second, the petitioner is sought to be implicated on the basis of the fact that one lady by the name of Taranjit Kaur was seen entering the ultrasound room, who came out within 3½ minutes thereafter, but with no form etc. filled in qua the said lady.

He submits that no ultrasound could have been conducted within 3½ minutes and therefore, simply because some lady may have come into the ultrasound room for any purpose of even taking any oral instructions from the doctor, no offence would be made out in that regard.

Notice of motion.

On the asking of the court, Dr. Anmol Malik, D.A.G., Haryana, accepts notice on behalf of the respondent-State.

A copy of the petition be emailed to learned State counsel by counsel for the petitioner today itself.

Adjourned to 15.02.2022.

Learned State counsel seeks time to file a detailed reply to the petition in terms of what has been contended hereinabove and of course in reply to each paragraph of the petition.

In the meanwhile, in the aforesaid circumstances, with even the FIR stating that necessary forms etc. had been filled in as regards a decoy customer, the petitioner be not arrested till the next date of hearing only and specifically.

It is also to be noticed at this stage that learned counsel for the petitioner submits that the petitioner was issued notices under the provisions of Section 41-A of the Cr.P.C., directing that she should remain in the hospital on particular dates and times, for the investigating officer/a team of persons to come and inquire into the matter, but no person ever came to the hospital despite such notices.”

3. Learned counsel for the petitioner has submitted that a false case has been lodged against the petitioner and others infact the falsity would be evident from the very fact that till date no complaint has been filed by the District Appropriate Authority even against the co-accused against whom challan has been presented. Learned counsel, in order to hammer forth his aforesaid submission, has today produced a copy order dated 19.7.2022 passed by learned Additional Chief Judicial Magistrate, Yamuna Nagar at Jagadhri while considering framing of charges against co-accused. The relevant extract from the said order reads as follows:

“..... As far as Sections 3A, 4, 23, 25 and 29 of PC&PNDT Act is concerned, this Court is convinced with the submissions of learned defence counsel, as Section 28 of PC&PNDT Act specifically denotes that the cognizance can be taken by the Court, only on the complaint of District Appropriate Authority, Admittedly, in the present case till now, no complaint has been filed by District Appropriate

Authority and hence, when cognizance of Court is specifically barred without a complaint, then no case under Sections 3A, 4, 23, 25 and 29 of PC&PNDT act is made out against the accused persons and hence, they are hereby discharged for the offences under Section 3A, 4, 23, 25 and 29 of PC&PNDT Act....”

4. Learned State counsel, upon instructions from the Investigating Officer, has informed that pursuant to interim directions, the petitioner has since joined investigation and he is not required for any custodial interrogation. Learned State counsel has informed that the petitioner is not involved in any other case.
5. Having regard to the aforestated position, wherein the petitioner is stated to have joined investigation and is not required for any custodial interrogation and he is not stated to be involved in any other case, the petition is accepted and it is ordered that the petitioner, in the event of arrest, be released on bail subject to her furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

26.7.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No