

CRM-M-7002-2022(O&M)
Date of decision:23.02.2022.

Birwati ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR JUSTICE HARINDER SINGH SIDHU

Present: Mr. Mohan Shyam Arya, Advocate, for the petitioner.

Mr. R.K.Singla, Additional Advocate General, Haryana.

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HARINDER SINGH SIDHU, J.

Case is taken up through Video Conferencing on account of COVID-2019.

This is a petition under Section 439 of the Code of Criminal Procedure seeking regular bail to the petitioner in case FIR No. 715 dated 22.09.2021, under Sections 336, 420, 120-B read with Section 34 IPC and Section 15(3) of the Medical Council Act, Sections 3, 4 & 5 Medical Termination of Pregnancy Act & 18A and 18C of Drug & Cosmetics Act, registered at Police Station Camp Palwal, District Palwal.

As per the allegation in the FIR, a secret information was received by Civil Surgeon, Palwal that the petitioner, who was unqualified, was practicing as a doctor and running illegal business of MTP and Sex determination and thereby, playing havoc with the lives of the patients. On receiving of this information, a team was constituted and the premises of the M/s Mohikal Ayurvedi Jachcha Bachcha Clinic, near Dhan Meal, Aligarh Road, Palwal was checked. The petitioner was found present there. She was asked to produce her medical degree but she could not produce any medical degree. She stated that she was only 12 standard pass and was pursuing 1st year of ANM course. Allopathic medicines, injections, BP operatus,

Stethoscope and treatment history of patients were found there. She stated that

Dr. Rama Shanker Tripathi was handling the clinic. Equipment for conducting MTP was also found.

Learned counsel for the petitioner has argued that no offence under Sections 3, 4 & 5 of the Medical Termination of Pregnancy Act is made out because there is no material to indicate that the petitioner has terminated the pregnancy of any women. The investigation, in the case is complete and challan has been filed. The petitioner is in custody since 22.09.2021. Though the petitioner has been convicted in case FIR No.541 dated 13.07.2016 for similar offence, however, her appeal there against is pending. He further argued that the trial of the case will take a long time and no useful purpose will be served by keeping the petitioner in custody during trial.

On the other hand, learned State counsel has argued that the petitioner is a habitual offender and she was convicted in another case in FIR No.541 dated 13.07.2016 and she does not deserve the concession of bail.

Without commenting anything on the merits of the case and also bearing in mind the facts of this case, in my opinion, no useful purpose will be served by detaining the petitioner behind bars any further. The petition, as such, is accepted. The petitioner-Birwati is ordered to be released on bail on her furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

This present petition stands accepted accordingly.

(HARINDER SINGH SIDHU)
JUDGE

23.02.2022
hemlata

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No