

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

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**CRM-M-23943-2022
Decided on : 06.06.2022**

Dr. Sarita Kaushal

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Vinod Ghai, Sr. Advocate with
Ms. Kanika Ahuja, Advocate,
Mr. Mayur Karkra, Advocate and
Ms. Mahima Dogra, Advocate
for the petitioner(s).

Mr. Rohit Arya, DAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral)

At the outset, in compliance of the order dated 27th May, 2022, the learned State counsel has filed the status report/reply by way of an affidavit of Aman Kumar, HPS, Assistant Commissioner of Police, Crime, Panchkula, on behalf of the State, in Court today. Same is taken on record, subject to all just exceptions. Office to tag the same at appropriate place in the case file.

By way of present filed under Section 439 Cr.P.C., petitioner is seeking the concession of bail in case FIR No. 193, dated 02.05.2022, lodged under Sections 3, 4, 5 of MTPI Act, 1971, Section 18(A) & 18(C) of Drugs and Cosmetic Act, 1940, Sections 312, 315, 420 of IPC and Sections 15(2) & 15(3) of Indian Medical Council Act, 1956, registered at Police Station Sector 14, Panchkula, Haryana (Annexure P-1).

Learned Senior counsel submits that the petitioner is a qualified naturopath and is running her NGO from the same premises from where her

doctor husband (co-accused) is running his nursing home. He submits that the false implication of the petitioner in the instant case is evident from the fact that neither was she named in the FIR in question nor attributed any role therein qua the alleged termination of the pregnancy of co-accused Sheela. Learned Senior counsel further submits that the petitioner was nominated as an accused in the instant case on the basis of totally inadmissible evidence i.e. some statements made by co-accused inculcating the petitioner in the alleged crime as well as her own confession made to the said effect. In addition to this, learned senior counsel submits that the prosecution has relied upon some entries in a diary allegedly recovered from the nursing home, to link the petitioner in the alleged crime. He submits that in the said diary there was an entry to the effect that co-accused Sheela had been treated for stomach ache and charged Rs.60/- but therein also there was no such noting from which it could be inferred that it was the petitioner who had treated co-accused Sheela or charged Rs.60/- from her. Learned Senior counsel submits that other than the above, there is no other cogent evidence or material on record, which could in any way link the petitioner with the alleged termination of pregnancy of co-accused Sheela. Learned Senior counsel still further submits that the petitioner has been in custody since 02.05.2022 and the trial will take considerable time to conclude.

On the other hand, learned State counsel while opposing the prayer and submissions made by the learned Senior counsel, submits that the petitioner as per her own statement made before the investigating agency admitted that she had played an active role in the crime in question. He submits that the petitioner illegally terminated the pregnancy of co-accused Sheela as a result of which she developed septicemia. He further submits that even the co-accused specifically named and attributed a role to the petitioner which finds

credence from the diary, recovered from the nursing home and points to the participation of the petitioner in the crime in question. Learned State counsel submits that no doubt it was not specifically mentioned in the diary that the petitioner had treated the co-accused and carried out the termination of pregnancy, but it was discernible that Rs.60/-, was charged by both the petitioner and her husband for carrying out the procedure and intentionally it had been noted in the diary that it was for stomach ache.

I have heard learned counsel for the parties and perused the relevant material on record.

Except for offences under Sections 315 & 420 of IPC, all other offences alleged in the FIR in question, are bailable. Admittedly, the petitioner has not been named in the FIR, but has been nominated as an accused on the basis of certain entries in a diary and on the statements of co-accused made before the police. The petitioner has been in custody since 02.05.2022 and the trial will take considerable time to conclude. In the facts and circumstances, as enumerated hereinabove, the petition is allowed and the petitioner is admitted to bail to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that any observation made here-in-above shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

June 06, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*