

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

212

**CRM-M-26812-2022
Date of Decision: 22.06.2022**

DEEPA @ DEEPIKA

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Arun Gupta, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.104, dated 10.05.2022 under Sections 2, 3, 3-A, 4, 5, 6, 23 and 29 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 and Rules 3(3), 4, 9, 10, 18 (1 to 20) and Section 420 & 120-B of the Indian Penal Code, 1860, registered at Police Station Jhansa, District Kurukshetra.

Learned counsel appearing on behalf of the petitioner *inter alia* contends that the FIR in question has been registered on the basis of a secret information to the effect that one Sukhwinder Kaur alongwith other co-accused is involved in conducting sex determination test of the foetus of pregnant women. A PNDT team was accordingly constituted by the Civil

Surgeon, Kurukshetra and a decoy was sent to Saharanpur. One Babita and the co-accused Sukhwinder Kaur went alongwith the decoy customer in the car, where they met the petitioner, who is alleged to have taken money from Sukhwinder Kaur. The petitioner is stated to have led the decoy customer to the house where the sex determination test was to be conducted upon the decoy customer. Co-accused Swaran Kumar and Sumit Kumar were present. The petitioner Deepa @ Deepika is alleged to have left the decoy customer to Babita and Sukhwinder Kaur when all of them were apprehended. The petitioner was taken in custody. He contends that a sum of Rs.32,000/-, which was fixed as the cost for sex determination and was duly marked by the PNDT Team, was recovered from co-accused Sukhwinder Kaur. The role attributed to the petitioner is stated to be at par with co-accused Babita i.e. to have accompanied the decoy and to have led her to the place where the sex determination test was to conducted. He further contends that the petitioner was neither a technical nor a professional employee of the place where the sex determination test is alleged to have taken place. Consequently, the provisions of Section 23 of the PNDT Act would not get attracted to the petitioner. He further contends that the said co-accused namely Babita has already been granted the concession of regular bail by the Additional Sessions Judge (Fast Track Special Court to primarily try the cases of rape alongwith the offences of POCSO Act), Kurukshetra.

Learned State counsel, on the other hand, has alleged that the petitioner was involved in the entire group that is indulged in violation of the provisions of the PNDT Act and that she had actively participated in the commission of offence and that money was recovered from her.

The aforesaid averment of the learned State counsel is controverted by the learned counsel for the petitioner, who urged that as a matter of fact the entire recovery of Rs.32,000/- has already been effected from Sukhwinder Kaur i.e. co-accused and that there was no occasion or reason for any recovery to be effected from the petitioner as no such distinct identified currency notes were handed over to the petitioner. He further urges that the petitioner had no reason to believe the actual object of the decoy coming to the instant place and that no knowledge can be inferred or assumed. He further submits that the petitioner is already in judicial custody and her continued custodial interrogation is not required for furtherance of the investigation or conclusion thereof.

Taking into consideration the facts and circumstances noticed above, role attributed to the petitioner, as also the fact that other similarly placed co-accused Babita has already been granted the concession of regular bail by the Additional Sessions Judge (Fast Track Special Court to primarily try the cases of rape alongwith the offences of POCSO Act), Kurukshetra vide order dated 02.06.2022, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to her furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as

an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

Petition stands allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

22.06.2022
rajender

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*