

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31136-2023 (O&M)
Date of decision : 02.08.2023

Indira

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: None for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition under Section 438 of the Code of Criminal Procedure has been filed for grant of pre-arrest bail to the petitioner in FIR No.112 dated 15.02.2023, under Sections 3, 4, 5 of the Medical Termination of Pregnancy Act, 1971 (*for short '1971 Act'*); (Sections 4, 5, 6 & 23 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (*for short '1994 Act'*) added later on); Sections 420, 120-B of the Indian Penal Code, 1860 (*for short 'IPC'*), registered at Police Station Assandh, District Karnal.

(2) It transpires that above FIR was registered on the basis of complaint, made by Deputy Civil Surgeon, Karnal to that effect that on

15.02.2023, a telephonic information was received from one Virk Hospital regarding illegal abortion of pregnant woman, whose uterus was ruptured; the child had come in the abdomen and due to that, her condition is serious. On complaint, a raiding team of Doctors was constituted and at about 11:30 AM, they reached at Virk Hospital and found that patient-Manisha was put on ventilator. On inquiry, her mother-in-law Santosh disclosed that illegal termination of pregnancy of victim was conducted at one Medicity Hospital, Assandh. Thereafter, Team of Doctors reached there and in the labour room of said hospital, all instruments, which were used in the illegal termination of the pregnancy, were found. It was clear that termination of the pregnancy is being conducted; but the said Hospital is not registered under the Act.

(3) The Coordinate Bench, vide order dated 23.06.2023, granted interim bail to petitioner and the same reads as under:-

“The prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case bearing FIR No.112 dated 15.02.2023, under Sections 3, 4, 5 of MTP Act 1971 (Sections 4, 5, 6 and 23 added later on) of Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act and under Sections 420 and 120-B IPC, registered at police station Assandh, District Karnal.

Learned counsel for the petitioner submits that the petitioner was arrested on the basis of disclosure statement made by co-accused and as per the allegations, the petitioner got introduced the family of the victim to the co-accused Vinod for sex determination of the unborn child and received commission. Learned counsel for the petitioner further submits that the petitioner is not involved in the act of abortion, however, she is the resident of Utter Pradesh and no other complaint is filed against her till date.

Notice of motion.

At the asking of the Court, Mr. Ranvir Singh Arya, Addl. A.G. Haryana, appears and accepts notice on behalf of respondent-State. A copy of the paper book be supplied to him during the course of the day. He seeks some time to file reply.

Status report be filed on or before the next date of hearing with advance copy to the counsel opposite.

Meanwhile, in the eventuality of arrest of the petitioner/petitioners in the instant case, she shall be enlarged on interim bail subject to his/her/their furnishing personal bond/surety bond to the satisfaction of Investigating Officer/Arresting Officer. The petitioner shall join the investigation as and when called upon to do so by the Investigating Agency. The petitioner shall abide by the conditions as laid down under Section 438(2) Cr.P.C. in letter and spirit:-

- i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;*
- ii) that the petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case as to dissuade him from disclosing such facts to the Court or to any police officer;*
- iii) that the petitioner shall not leave the country without prior permission to the Court and shall surrender his passport, if any.*

List on 02.08.2023.”

(4) Learned State Counsel has filed status report by way of affidavit dated 02.08.2023 of Sh. Sandeep Singh, DSP, Assandh, Karnal. The same is taken on record. Learned State Counsel, on instructions, submits that

petitioner has joined investigation and as on today, her custodial interrogation is not required.

(5) In view of above, interim order dated 23.06.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(6) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

(7) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

(8) Disposed off accordingly.

August 2nd, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>