

IN THE COURT OF ANIL KUMAR, ADDL. SESSIONS JUDGE, JIND.

Bail application No. 269 dated 17.07.2015
Date of Order: 20.07.2015

Dr. Saroj Chaudhary wife of Ram Kumar C/o Apna Clinic, Julana, Tehsil
Julana, District Jind.

....Applicant/accused.

versus

State of Haryana.

....Respondent.

FIR No. 162 dated 14.07.2015
U/Ss 3, 4 of MTP Act and 6C of PC and PNDT Act
Police Station: Julana.

Application for regular bail

Present: Shri Manjeet Singh, Advocate for the applicant/accused.
Shri V.S. Mann, Public Prosecutor for the State.

ORDER:

This order of mine shall dispose of the bail application moved by applicant/accused to which reply has been furnished by the State opposing bail application.

2. I have heard learned counsel for applicant/accused and the learned Public Prosecutor for State.

3. Learned counsel for the applicant/accused submitted that the applicant is practising for the last 17 years in Julana and used to help the patients in delivery of the child, therefore, she has gained very good reputation in the society and there is no history of any kind of misconduct on her part but police acted illegally and mechanically in connivance with the complainant and registered the instant FIR which is not at all maintainable if the entire version of the prosecution is taken on its face

value. It is further submitted that merely having the possession of alleged instrument and certain medicines of expiry date does not constitute any offence under MTP and PNDT Act. He further submitted that even otherwise FIR cannot be registered in this matter due to the bar created by Section 28(i)(a) of the PNDT Act where only the complaint can be filed by an officer who is authorized in that behalf by the central government. He further submitted that the allegation that BAMS certificate of the applicant is also doubtful, is groundless. Therefore, it clearly shows the intention of the police officials that they have malafide intention to harass the applicant/accused by involving her in the present false and frivolous case. Moreover, the applicant/accused is ready to abide by the terms and conditions, if any, imposed by the court. Thus he prayed for enlarging the applicant/accused on regular bail.

4. On the other hand, learned Public Prosecutor for the State submitted that the possession of instrument creates a doubt that applicant/accused is involving in illegal termination of pregnancy and disclosing the sex of unborn child and therefore, the offence is committed under the provisions of MTP and PNDT Act. Thus he prayed for the rejection of instant bail application.

5. I have duly considered the rival contentions of the parties and perused the police reply furnished by the prosecution. The query was put to the learned Public Prosecutor regarding possession of the instrument that whether merely possession of certain instrument is an offence under the provisions of MTP or PNDT Act. Learned Public Prosecutor replied in negative. It is not the case that the applicant/accused is involved in

disclosing of the sex or found in possession of any sort of ultrasound machine or terminates the pregnancy of unborn child. A perusal of the police reply reveals that police has acted on the written complaint of Dr. Satish Sulekh, Deputy Civil Surgeon, Jind, solely on the basis of doubt and suspicion without disclosing any reasonable ground that the applicant/accused has terminated the pregnancy or disclosed the sex of unborn child. Thus, in view of the facts and circumstances of instant case and without commenting anything on the merits of the case, I find that the applicant/accused deserves to be released on regular bail and accordingly she is ordered to be released on regular bail to the satisfaction of learned Illaqa/Duty Magistrate with the condition that she will not misuse the concession of bail and will appear before the court as and when required by the court.

6. Copy of this order be sent to court concerned and bail application file be consigned to record room.

(Anil Kumar)
Addl. Sessions Judge,
Jind. 20.07.2015

Present: Shri Manjeet Singh, Advocate for the applicant/accused.
Shri V.S. Mann, Public Prosecutor for the State.

Reply furnished. Arguments heard. Vide my separate order of even date, the bail application has been allowed. File be consigned to the record room.

Announced in open court.

(Anil Kumar)
Addl. Sessions Judge,
Jind. 20.07.2015