



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

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**CRM-M-26844-2025
Decided on : 01.07.2025**

APURVA UPADHYAY**.....Petitioner****Versus****STATE OF HARYANA****.....Respondent****CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present: Mr. Ajit Sihag, Advocate, for
Mr. Kamal Deep Sehra, Advocate, for the petitioner.

Mr. Dharam Pal, AAG, Haryana.

SANJAY VASHISTH, J.

1. The instant petition has been filed under Section 483 of BNSS, 2023 (earlier Section 439 Cr.P.C.), for grant of regular bail to the petitioner, during the pendency of trial, who has been booked in a criminal case arising out of First Information Report, as detailed hereunder:-

Name of Petitioner(s)	FIR No.	Date	Section(s)	Police Station	District
Apurva Upadhyay, aged about 27 years	55	11.02.2025	3(5)/88/91/123/125 of BNS and 3, 4, 5 of the Medical Termination of Pregnancy Act, 1971 (Sections 3(5)/88/91/123 of the BNS Act were deleted in challan)	Sector - 40	Gurugram



2. Learned counsel for the petitioner contends that allegation in the present case pertains to the receipt of information regarding the online sale of medical termination of pregnancy kits without the requisite prescription. Based on this information, an offence was registered against M/s Apurva Upadhyay Manufacturing Trading Company.

3. Learned counsel for the petitioner places reliance on the judgments of the co-ordinate Bench of this Court passed in the cases of ***Dr. Vandana Malik vs. State of Haryana, 2014(37) RCR (Criminal) 889 : Law Finder Doc Id #649930***, and ***Sandeep Bhargava vs. State of Haryana, 2019(4) RCR (Criminal) 206 : Law Finder Doc Id #1571518***. In both cases, FIRs were quashed on the ground that, in the absence of any actual termination of pregnancy, no offence was made out under the relevant provisions of law, while placing reliance on the judgment passed by Hon'ble Supreme Court in the case of ***State of Haryana and others vs. Ch. Bhajan Lal and others, 1991(1) RCR (Criminal) 383***. The relevant extract from Clause (1) of para 107 of the said judgment reads as under:-

“Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.”

4. It is argued that mere registration of a criminal case, without the occurrence of an actual offence, does not justify prosecution. Furthermore, it is submitted that petitioner has been in custody since 13.02.2025, and in the absence of any meaningful purpose being served



to the prosecution, the petitioner's personal liberty cannot be curtailed indefinitely.

It is also submitted that investigation in the matter has already been concluded and the challan has been presented before the competent court. Out of the total 11 prosecution witnesses, only 2 have been examined so far. Thus, counsel prays for grant of regular bail to the petitioner in the present case.

5. Learned State counsel has filed status report dated 30.06.2025 in the Court today and the same is taken on record.

While opposing the prayer for bail and submissions made by counsel for the petitioner, learned State counsel submits that petitioner is involved in a crime that constitutes a socially harmful and morally reprehensible act. It is contended that such conduct does not warrant any leniency or sympathy from the Court, and therefore, plea for grant of bail deserves to be rejected.

Further, it is submitted that promotion or sale of empty MTP kits in the open market, particularly through online platforms, poses a serious threat to public health and may adversely impact the gender ratio in the country. Thus, prays for dismissal of present regular bail petition.

6. After hearing learned counsel for the parties and perusing the relevant material on record with their able assistance, this Court is of the view that, in light of the parameters laid down in the judgment rendered by the Hon'ble Supreme Court in *State of Haryana and others vs. Ch. Bhajan Lal and others (supra)*, it remains a debatable issue as to the occurrence of actual offence and liability of the petitioner under the



alleged offence, would be determined during the course of trial. Furthermore, petitioner has been in custody since 13.02.2025, and his continued confinement does not appear to serve any meaningful or gainful purpose for the prosecution.

7. Considering the totality of circumstances, nature of allegations, and the factors discussed above, this Court finds it appropriate to extend the concession of bail to the petitioner.

8. Consequently, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

9. Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

10. Any of the discussion done and recorded here above, shall not be construed as an expression of opinion on the facts of the case. Therefore, trial Court is expected to decide the case by taking an independent view, on the basis of evidence available on record, as expeditiously as possible, in accordance with law.

11. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

01.07.2025
Lavisha

Whether Speaking/Reasoned: ✓YES/NO
Whether Reportable: ✓YES/NO