

IN CONSIDERING BAIL FOR A PREGNANT WOMAN, THE PERSONHOOD OF HER FETUS HAS TO BE A FACTOR.

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Court and law believe the fact that the unborn child is innocent of all wrongdoing and ought not to be subjected to the distressful conditions that inhere detention.

During the recent hearing bail that is given in Delhi High Court Jamia Milia Islamia student Safoora Zargar, presiding judge Rajiv Shakhdher had asked for the legal regime on the rights of the unborn child. Zargar's counsel, Nitya Rama Krishna, prepared a note for the consideration of the court detailing the position in law- municipal and international- on the rights of the unborn child and its independent 'personhood'.

Then it was made clear by the Ramakrishnan that the charges made against her under the Unlawful Activities (Prevention) Act, her incarnation as an under trial is both unnecessary and harmful to her health and the health the fetus too and said why the child is been punished for anything.

In the event, the high court granted bail without going into the merits as the Delhi Police, which has resisted the grant of bail all along, conceded the plea on humanitarian grounds.

During the protests against the Citizenship Amendment Act against whom the serious charges has been filed by the Delhi and the Uttar Pradesh Police under different sections of the law and she is one of them who was in the protest and the charges are also applied against her.

Safoora has completed 23 weeks of pregnancy as on June 22,2020 and now she needs more medical assistance and a better environment for the growth of the healthy child. The unborn child to whom the live birth never comes is held to be the 'person' who can subject of an action

for damages for his death. The foetus is another life in woman and loss of foetus is actually a loss of child in the offing.

Further, it has been said that unborn child can be regarded as a living entity with a life of its own and from this it has been cleared that for the mistake of one person the other cannot be punished. As, the fetal protection is an objective, that can best be served by precaution and care. That precaution would make pregnancy a major ground for releasing the mother on bail.