

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

Criminal Misc. No.M-12632 of 2014

Date of Decision: August 19, 2015

Aman Mahajan

...Petitioner

Versus

Union Territory, Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Kanwaljit Singh, Senior Advocate, with
Mr.Jaswant Singh, Advocate,
for the petitioner.

Mr.J.S.Toor, Addl. APP,
for the respondent-State.

Mr.Amit Prashar, Advocate,
for the informant.

Naresh Kumar Sanghi, J.

Prayer in this petition, filed under Section 438, Cr.P.C.,
is for grant of anticipatory bail to the petitioner, Aman Mahajan,
who has been booked for having committed the offences
punishable under Sections 312, 315, 419 and 468, IPC, in a case
arising out of FIR No.42, dated 14.03.2014, registered at Police
Station, Sector 19, Chandigarh.

Learned Senior counsel contends that as per
prosecution version, the petitioner had developed extra-martial

relations with one, Shweta Sharma. Due to their relations, Shweta Sharma became pregnant and the said pregnancy was terminated in a Nursing Home at Chandigarh. At the time of termination of pregnancy, necessary forms were filled by the petitioner and Shweta Sharma. The petitioner pretended himself to be the husband of Shweta Sharma. However, there was no dispute that Shweta Sharma gave her consent for termination of her pregnancy and as such, the ingredients of Sections 312 and 315, IPC, are not attracted. He further submits that even if the signatures, on the forms filled before termination of the pregnancy, are assumed to be of the petitioner, then also the mischief of Section 468, IPC, is not attracted. At best it could be a case under Section 419, IPC, which is bailable one. He also submits that the petitioner has joined the investigation multiple times and his custodial interrogation is not required.

Learned counsel for the State assisted by Mr.Amit Prashar, counsel for the informant, submits that the report of Govt. Handwriting Expert has been received saying that the signatures on the forms filled at the time of termination of pregnancy of Shweta Sharma were of the petitioner. However, learned counsel for the State submits that the petitioner joined the investigation and he has not disclosed the true facts before the Investigating Agency.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

From the material available on record, this Court finds that Shweta Sharma, who is aged about 32 years and a mother of 10 years old child, had given her consent for termination of her pregnancy, therefore, it will be a moot point during the course of trial that essential ingredients of Sections 312 and 315, IPC, are attracted. It will also be a moot point with regard to applicability of Section 468, IPC. So far as commission of the offence punishable under Section 419, IPC, is concerned, the same is bailable. The petitioner has joined the investigation and the only ground on which learned counsel for the State has opposed the grant of bail to the petitioner is that he has not rationally answered the questions put-forth by the Investigating Officer. In the considered opinion of this Court, for that purpose the concession of bail to the petitioner cannot be denied. He can be directed to join the investigation as and when required to do so during pendency of the investigation.

Keeping in view the totality of the facts and circumstances of the case, the present petition is allowed. Interim directions issued by this Court vide order dated 21.04.2014 are made absolute.

The petitioner shall continue to join the investigation as and when required to do so and abide by all the terms and conditions as laid down under Section 438(2), Cr.P.C.

It is made clear that if the petitioner in any manner tries to put pressure on the witnesses, in that eventuality, it will be open for the Investigating Agency or the informant to move proper application for withdrawal of the concession granted to the petitioner.

August 19, 2015
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(Naresh Kumar Sanghi)
Judge