

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

CRM-M No.9653 of 2019 (O&M)

Date of decision: 9th May, 2019

Hemant Kumar Sharma

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Atul Goyal, Advocate for
 Mr. Kamal Sharma, Advocate for the petitioner.

 Mr. Baljinder S. Virk, Dy. Advocate General, Haryana
 for the respondent/State.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Hemant Kumar Sharma in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.412 dated 20.10.2018 under Sections 323, 406, 498-A, 506, 34, 313 IPC pertaining to Police Station Madlauda, District Panipat, have been levelled by the complainant wife. It is alleged that marriage between the petitioner and the complainant took place on 29.04.2018 where sufficient dowry articles as per the demand of the accused side were given, however, the accused side were not happy with the same and often used to taunt and physically abuse her and raised further demand of costly articles and cash. The complainant further stated that husband petitioner used to often physically abuse her and in the process had

assaulted her leading to her abortion on 26.06.2018, leading to registration of the present case and arrest of the accused on 15.01.2019.

Learned counsel for the petitioner Mr. Atul Goyal, Advocate inter alia contends that the petitioner is behind bars since almost four months and that the articles of Istridhan, if any, stand recovered and sought to debate over applicability of Section 313 IPC on the grounds that there is no medical evidence to support these allegations.

On behalf of the State, Mr. Baljinder S. Virk, Dy. Advocate General, Haryana on instructions from ASI Ram Nivas, concedes to the facts that have been canvassed before this Court by learned counsel for the petitioner but has sought to stoutly oppose the grant of relief arguing that it was the physical abuse by the husband which has led to abortion of the complainant and if allowed bail the petitioner might stifle the trial.

Going through the submissions of the two sides, to the very specific query of the Court, learned State counsel was totally unable to bring to the notice of this Court any medical evidence to show that an abortion has resulted. Thus, a debatable issue arises over the very applicability of Section 313 IPC. More so, the petitioner is behind bars since a long time and trial will take a long time to conclude. In view thereof, this Court is of the opinion that no useful purpose will be served by keeping the petitioner in custody in the present case. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Panipat. However, it is made clear

that anything observed herein shall not be construed as an expression on the merits of the case.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

May 9, 2019
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No