

105.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24731-2020

Date of decision: 23.09.2020

SHARUKH

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Nipun Vashist, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

This is second petition filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case FIR No.2094 dated 26.10.2019 registered under Sections 201, 304A, 314 and 366 of IPC at Police Station Shivaji Nagar, Gurugram, District Gurugram.

The earlier petition filed by the petitioner seeking regular bail i.e. **CRM-M-9721-2020** was dismissed as withdrawn vide order dated 13.03.2020 passed by this Court.

Counsel for the petitioner has argued that no offence under Section 304-A IPC is made out against the petitioner. The deceased was admitted in hospital and has died during the procedure of abortion. The case of the petitioner does not fall for the offences under Sections 312 or 314

IPC. At the most, it was a threatened abortion in order to save the life of deceased that too by a competent doctor i.e. Dr. Raja's Nursing Home. He states that the complainant was informed about the death of deceased but as the parents of the girl had disowned the deceased as she was in relationship with the petitioner, the complainant did not pay any heed to his information. Accordingly, the deceased was buried in the graveyard near ITO, Delhi. The parents of the deceased had not come forward to accept the body. The petitioner is in custody since 26.10.2019. The petitioner has not committed the offence under Section 304A IPC in any manner. Challan in the case has been presented.

Learned State counsel does not dispute the custody. However, she submits that the petitioner had taken the deceased with him to the hospital where she was subjected to abortion and died. He did not inform the family of the deceased and buried her body in the graveyard without any information. Therefore, the petitioner has committed serious offence.

I have heard learned counsel for the parties.

Petitioner is in custody since 26.10.2019. The allegation as to whether the petitioner has not informed the family of the deceased is a subject matter to be adjudicated during trial. Further, the ingredients of offence under Section 304-A IPC are matter to be considered by the trial Court during trial. Similarly, the issue as to whether it is a threatened abortion or was a planned one, is a matter to be considered during trial. Trial in the case is not likely to be concluded in the near future as the complainant has not been examined despite the challan having been presented on 28.12.2019. Thus, this Court deems it appropriate to admit the petitioner on

bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

23.09.2020

sanjeev

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