

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.37140 of 2023
Date of Decision: 29.11.2023

Fateh Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Suneet Pal Singh Aulakh, Advocate,
for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioner for grant of anticipatory bail under Section 438 Cr.P.C. in case arising out of FIR No.128 dated 24.06.2023 registered under Sections 312, 313, 318 IPC and 25 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (For short “Act, 1994”) at Police Station Samrala, Police District Khanna, District Ludhiana.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 24.06.2023 on receipt of a telephonic information regarding admission of one Gurinder Kaur in Civil Hospital Khamano for the purpose of undergoing treatment as a case of abortion, a police party reached there. On making inquiries, it was found that the above named Gurinder Kaur who was about eight months pregnant, had got the foetus in her womb aborted with the help of her family members and as the placenta was retained in her vagina, therefore, she was profusely

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bleeding. It was further revealed that the above named Gurinder Kaur was made pregnant by Kala son of Sukhdev Singh who was brother-in-law (devar) of the elder sister of Gurinder Kaur and on the intervening night of 22-23/06/2023, her family members in connivance with her aborted the child. The accused Gurinder Kaur, her family members and accused Kala were booked for causing miscarriage and for secretly disposing of the foetus in her womb by concealment of birth. During investigation, it was also revealed that the accused Gurinder Kaur had also developed physical relations with the present petitioner who is hailing from the same village and she might have conceived as a result of that. Investigation proceedings are going on. The petitioner apprehending his arrest had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Ludhiana but the same was dismissed vide order dated 11.07.2023.

3. Vide order dated 01.08.2023 passed by this Court, the petitioner had been directed to join the investigation.

4. Today, learned State counsel, on receipt of instructions from the IO, has stated that the petitioner has joined the investigation and his custodial interrogation is not required.

5. I have heard learned counsel for the petitioner and learned State counsel and have perused the record.

6. The petitioner is alleged to have developed physical relations with the co-accused Gurinder Kaur and she is alleged to have become pregnant as an outcome of the same. As per the version of the prosecution, she was eight months pregnant as on 23.06.2023 when in connivance with the co-accused who are her family members, she caused miscarriage of the foetus in her womb/got her pregnancy aborted prematurely and also caused

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secret disposal of the dead body by concealing the factum of delivery/birth. The involvement of the present petitioner in the commission of offences punishable under Sections 312, 313 and 318 of IPC read with Section 25 of Act, 1994, has prima facie not been made out from the allegations in the FIR and it is highly debatable as to whether he committed either of the above mentioned offences? He has already joined the proceedings and neither his custodial interrogation is required nor any recovery is to be effected from him. As such, no useful purpose would be served by detaining the petitioner in custody.

7. Keeping in view the nature of the allegations as levelled in the FIR which prima facie do not connect with the petitioner with the subject offences and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that it is a fit case for exercising powers under Section 438 of Cr.P.C. and for extending benefit of anticipatory bail to the petitioner. Hence, the petition is allowed and the order dated 01.08.2023 is made absolute subject to the conditions that the petitioner shall appear before the Arresting Officer/Investigating Officer and shall join the investigation within one week and thereafter as and when required by the Investigating Officer and subject to compliance of other usual terms and conditions of Section 438 (2) of Cr.P.C.

(MANISHA BATRA)
JUDGE

29.11.2023
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No