

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM-M-37257-2022 (O&M)

Date of Decision: 07.02.2024

MONU

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Ravinder Rana, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case FIR No.193 dated 02.05.2022 registered under Sections 3, 4, 5 of Medical Termination of Pregnancy Act, 1971, Sections 18-A, 18-C of Drugs and Cosmetics Act, 1940, Sections 15(2), 15(3) of the Indian Medical Council Act, 1956 and Sections 312, 315, 420 of the IPC at Police Station Sector 14, Panchkula.

2. On 05.09.2022, the Coordinate Bench of this Court passed the following order:-

“Counsel for the petitioner submits that the role allegedly ascribed to the petitioner, is that instead of taking his wife-Sheela, to a qualified doctor, he took her to co-accused, Sarita, who is not a medical profession and she underwent an illegal abortion.

Notice of motion.

On asking of the Court, Ms. Mahima Yashpal, DAG, Haryana, accepts notice on behalf of the respondent-State.

List on 18.01.2023.

Petitioner is directed to appear before the Investigating Officer at Police Station Sector 14,

Panchkula on 14.09.2022 at 11.00 A.M. and join the investigation and would appear as and when called by the Investigating Officer. In the event of arrest, he shall be admitted to interim bail on furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. He shall also abide by the conditions as specified under Section 438 (2) Cr.P.C.”

3. Learned counsel for the petitioner contends that the petitioner had joined the investigation in compliance of the order dated 05.09.2022 passed by the Coordinate Bench of this Court.

4. Learned counsel appearing on behalf of the respondent-State on instructions from ASI Sukhjant Singh confirms that the petitioner has joined the investigation in compliance of the order dated 05.09.2022. He submits that all other co-accused have already been released on bail. He further submits that the petitioner is husband of the female, who has undergone for termination of pregnancy through doctor Sarita, whose disclosure statement (Annexure R-1) was recorded during the investigation. He contends that the petitioner had concealed the facts and played as a victim claiming that he went to doctor Sarita for regular check up of his wife, who was suffering from stomach pain and thereafter he came to know that his wife was pregnant. The statement of the petitioner (Annexure R-2) was also recorded during the investigation. He further contends that the petitioner wanted to get rid of unborn child, therefore they approached the clinic of doctor Sarita for termination of their pregnancy in a secret manner. He submits that the custodial interrogation of the petitioner is required.

5. I have considered the aforesaid contentions. The relevant portion of the disclosure statement of doctor Sarita (Annexure R-1) reads as under:

“I am a social worker, I have done NDDY (Diploma in Naturopathy & Yoga) diploma and I am BSC graduate. I

along with my husband have opened my NGO office in Shop No. 48, Rajeev Colony, Sai 17, Panchkula for the last 5 years. On 28/27-04-2022, victim Sheela Devi, wife of Monu, resident of M.N. 940, village Dadwa, UT Chandigarh, in my clinic. She had come to abort her unborn child with her husband Monu. After taking 3000 rupees from her, I aborted her, after abortion, Sheela Devi's health worsened and her bleeding was not stopping, to whom I gave 2 injections a day, after that a day later I gave 2 more injections. But the health of the victim Sheela Devi continued to deteriorate and Monu, the husband of the victim Sheela Devi, took her to Manimajra Government Hospital. Out of fear, I talked to Sheela and her husband Monu on the phone that you should not panic and bring Sheela back from Government Hospital Manimajra. On my request, Monu took his wife Sheela Devi to GMSH SAI 16 Chandigarh for treatment by bringing Sheela back to my clinic from Government Hospital Manimajra. Where Dr. Saheb seeing the condition of Sheela Devi, sent her to PGI for treatment. Referred Chandigarh and Dr. Vandana Mohan DFWO, GMSH Sai 016 Chandigarh informed Dr. Sneha Singh, Deputy Civil Surgeon, Family Welfare Department, Panchkula, Panchkula. The joint team of Chandigarh and Panchkula came to my shop no. 46, Rajeev Colony, Sai 017, Panchkula today at around 1:00 am and after inspecting the shop in front of me and my peon Poonam, sealed the shop with medicines and victim Sheela. Devi's husband Monu, after identifying me in front of everyone, told that I had aborted Sheela Devi's unborn child. Which I used to do this kind of work with my husband and now I alone could abort the child which Sheela Devi came to me for abortion on date 26/27-04-2022 with my husband and my sister Chhatravati and my Brother-in-law had come with Jagdish, I aborted with their consent, and after abortion, I put them in a waxy envelope and gave them to the victim and Go to Set."

6. The petitioner has already joined the investigation and his statement has already been recorded during the interrogation. The allegations as to whether the petitioner had intentionally gone to the clinic of doctor Sarita and was having the previous knowledge of pregnancy of his wife and was also having the knowledge that doctor Sarita is not having the requisite educational qualifications and licensing to treat the wife of the petitioner is a matter of trial.

7. Keeping in view the aforesaid facts and reasons recorded in the order dated 05.09.2022, the present petition is allowed and the order dated

05.09.2022 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) Cr.P.C.

8. Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

9. All pending miscellaneous application(s), if any, stands disposed of.

**(HARPREET KAUR JEEWAN)
JUDGE**

07.02.2024

P.Bhatt	Whether speaking/reasoned	Yes/No
	Whether reportable	Yes/No