
(2019) 11 SHI CK 0002

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 1900 Of 2019

Abhishek Chaudhary

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 01-11-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 323, 342, 500, 504, 506B

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(1)(e)(r)

Citation : (2019) 11 SHI CK 0002

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Ajay Sharma, Anandita Sharma, Anil Jaswal

Final Decision : Allowed

Judgement

Jyotsna Rewal Dua, J

1. By means of present petition filed under Section 439 of the Code of Criminal Procedure, the petitioner is seeking ad-interim as well as regular bail, in F.I.R. No.120, dated 24.09.2019, under Sections 342, 323, 500, 504, 506-B read with Section 34 of the Indian Penal Code and Section 3(1)(e)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Initially the FIR in question was registered against the petitioner only for the offences punishable under Section 342, 323, 500, 504, 506-B read with Section 34 of the Indian Penal Code. The petitioner had been granted bail in respect of these offences by learned Judicial Magistrate, 1st Class, Court No.4, Hamirpur, vide order dated 26.09.2019 (Annexure P-1). Later on, petitioner acquired the knowledge that Section 3(1)(e)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has also been added in the FIR in question, whereafter the instant bail application was moved. Interim protection was granted to the petitioner vide order dated 17.10.2019.

3. I have heard Mr. Ajay Sharma, learned senior counsel representing the petitioner and Mr. Anil Jaswal, learned Additional Advocate General, for the respondent-State. The status report filed by the respondent-State has been taken on record. I have also perused the record brought by ASI Ajaib Singh, who had partly investigated the matter.

4. As per the status report, Section 3(1)(e)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, was added in the FIR No.120/19 on 01.10.2019, however, the status report does not specifically disclose the basis for incorporating this particular section in the FIR. As per averments made in the petition, no such words, prohibited under the Act *ibid* were used by the petitioner and that he was falsely implicated in the case. In respect of the other offences, the petitioner has already been granted bail by learned Judicial Magistrate, 1st Class, Court No.4, Hamirpur. The status report does not mention any previous criminal history of the petitioner. Learned Additional Advocate General, on instructions imparted to him, has submitted that the bail petitioner has joined the investigation and has cooperated with investigating agency; nothing is to be recovered from the petitioner. Bail petitioner is a student of eighteen and half years of age. He is permanent resident of Village Balh Bagh, P.O. Mehal, Tehsil Bhoranj, District Hamirpur, H.P. There is no necessity for sending the petitioner to judicial custody in such circumstances.

5. In view of the above, instant petition is allowed. Accordingly, the interim order dated 17.10.2019 is made absolute, subject to following conditions:-

- i). The petitioner is directed to join the investigation of the case as and when called for by the Investigating Officer in accordance with law.
- ii). The petitioner shall not hamper the investigation in any manner whatsoever.
- iii). The petitioner undertakes not to contact the complainants, to threaten or browbeat them or to use any pressure tactics in any manner whatsoever.
- iv). The petitioner shall not leave India without prior permission of this Court.
- v). The petitioner undertakes not to make any inducement, threat or promise, directly or indirectly, to the Investigating Officer or any person acquainted with the facts of the case to dissuade him/her from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

It is clarified that the observations made above are only for the purpose of adjudication of the present bail petition and learned Trial Court shall not be influenced by any of these observations while deciding the case on merits. It shall be open for the prosecution to move for cancellation of the bail in case the petitioner abuses the liberty granted and breaches the conditions of bail.

The petition stands disposed of in the above terms.