

(2022) 05 SHI CK 0039

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 611, 879 Of 2022

Abhishek Negi And Others

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 13-05-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 120B, 420, 409, 465, 467, 468, 471, 472

Citation : (2022) 05 SHI CK 0039

Hon'ble Judges : Chander Bhusan Barowalia, J

Bench : Single Bench

Advocate : Hamender Singh Chandel, Raman Prashar, Virender Singh Kanwar,
Shiv Pal Manhans, Bhupinder Thakur

Final Decision : Disposed Of

Judgement

Chander Bhusan Barowalia, J

1. The present bail applications have been maintained by the petitioners, under Section 438 of the Code of Criminal Procedure seeking their release in case FIR No.8/2021, dated 17.7.2021, under Sections 420, 409, 465, 467, 468, 471, 472 and 120-B of the Indian Penal Code, registered at Police Station, CID Bharari, Shimla, H.P.

2. As per the averments made in the petitions, the petitioners are innocent and have been falsely implicated in the present case. They are permanent residents of the place and neither in a position to tamper with the prosecution evidence nor in a position to flee from justice. No fruitful purpose will be served by sending them behind the bars, so they be released on bail.

3. Police report stands filed. As per the prosecution story, Shri Makhan Singh (complainant) made a complaint before the police alleging therein that he is Regional Manager, Regional Office, Solan, Himachal Pradesh Gramin Bank, and duly authorized by the competent authority to represent the case and submitted

that Jitender Verma and Sanjeev Kumar (accused persons and petitioners herein), committing fraud by obtaining Bank loan on the basis of forged documents. They are the brokers who helped in manipulating the documents. It is further alleged in the complaint that as per the Banking norms for obtaining the Bank loan, loanee has to submit his documents of land and 'No Objection Certificate' from the concerned Patwari to the effect that there is no loan against the property. After sanction, the loanee has to create the charge by way of mutation in favour of the financing Bank in case of KCC loan and in case of housing loan, loanee has to create the charge on land and building by way of execution of registered mortgage deed. The accused persons forged the signatures of the Sub Registrar, Theog, by putting the forged stamps on the documents, so that it may appear genuine and thereafter submitted the same to the Bank concerned. By using the camera trick, the photographs of the executants is also procured by forging the document and also mentioned the fake registration number on all the mortgaged deeds. After sometime, all the loan accounts became irregular, as a result of which, Bank Officials issued notices/reminders to pay the loan amount, but all the loanee did not care to pay the loan amount with intention to cheat the Bank. Lastly, it is prayed that the instant bail applications may be dismissed, as the petitioners have committed a serious offence and in case, at this stage, if they are enlarged on bail, they may tamper with the prosecution evidence and may also flee from justice, so it is prayed that the instant bail petitions may be dismissed.

4. I have heard the learned counsel for the petitioners, learned Additional Advocate General for the State and gone through the records, including the police report, carefully.

5. Learned counsel for the petitioners has argued that the petitioners are permanent residents of the place and neither in a position to tamper with the prosecution evidence nor in a position to flee from justice. He has argued that no fruitful purpose will be served by sending them behind the bars. He has further argued that the instant petitions may be allowed and the petitioners may also be enlarged on bail.

6. On the other hand, learned Additional Advocate General has argued that the petitioners have committed a serious crime and in case, at this stage, if they are enlarged on bail, they may tamper with the prosecution evidence and may also flee from justice, so it is prayed that the bail applications of the petitioners may be dismissed.

7. In rebuttal, the learned counsel for the petitioners has argued that the petitioners are permanent residents of the place, neither in a position to flee from justice nor in a position to tamper with the prosecution evidence. He has further argued that the custody of the petitioners are not at all required by the police for investigation. The petitioners are joining and co-operating in the investigation, so the present bail applications may be allowed.

8. At this stage, taking into consideration the facts that they are residents of the place, neither in a position to tamper with the prosecution evidence nor in a position to flee from justice, they are joining and co-operating in the investigation, ready and willing to abide by the terms and conditions of bail, in case granted, considering the fact that nothing remains to be recovered from the petitioners, their custody is not at all required by the police for further investigation and also considering all other facets of the case and without discussing the same elaborately, this Court finds that the present is a fit case, where the judicial discretion to admit the petitioners on bail, in the event of their arrest, in this case, is required to be exercised in their favour. Under these circumstances, it is ordered that the petitioners, in the event of their arrest, in case FIR No. 8/2021, dated 17.7.2021, under Sections 420, 409, 465, 467, 468, 471, 472 and 120-B of the Indian Penal Code, registered at Police Station, CID Bharari, Shimla, be forthwith released on bail on their furnishing personal bonds to the tune of `10,000/- (rupees ten thousand only) each with one surety each in the like amount to the satisfaction of the Investigating Officer. The bail is granted subject to the following conditions:

- i. That the petitioners will appear before the learned Trial Court/police/authorities as and when required.
- ii. That the petitioners will not leave India without prior permission of the Court.
- iii. That the petitioners will not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Investigating Officer or Court.

9. In view of the above, the petitions are disposed of.

10. Needless to say that the observations made hereinabove are only confined for adjudication of the present case and the same shall have no bearing on the merits of the main case, which shall be adjudicated on its own.

Copy dasti.