

(2022) 03 SHI CK 0079

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 2104 Of 2021

Abhishek Virmani

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 23-03-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 120B, 420, 467, 471

Citation : (2022) 03 SHI CK 0079

Hon'ble Judges : Chander Bhusan Barowalia, J

Bench : Single Bench

Advocate : Nikhil Chugh, Yudhbir Singh Thakur, Bhupinder Thakur

Final Decision : Disposed Of

Judgement

Chander Bhusan Barowalia, J

1. The present bail application has been maintained by the petitioner, under Section 438 of the Code of Criminal Procedure seeking his release in case FIR No.84/2018, dated 17.7.2018, under Sections, 420, 467, 471, 120-B of the Indian Penal Code, registered at Police Station, East, District Shimla, H.P.

2. As per the averments made in the petition, the petitioner is innocent and has been falsely implicated in the present case. He is resident 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 him behind the bars, so he be released on bail.

3. Police report stands filed. As per the prosecution story, Shri Baldev Singh-complainant made a written complaint to the police wherein he alleged that he is having a Saving Bank Account in Axix Bank, Shimla. As per the complainant, in the month of December, 2017, one person, namely, Amit Kumar Jha, contacted on his mobile phone number 9418027718, on different occasions and introduced, as Officer in RBI, Delhi. Thereafter, the said person visited Shimla, asked him to

issue one cancelled cheque and two blank cheques, so that certain fund account can be settled at the earliest, as he was investing money in some companies. He further alleged that someone dishonestly withdraw an amount of `4,92,200/- from his account. When he enquired about this fact, someone has forged his signature and withdraw huge amount. As per the police, after completion of the investigation, on 3.3.2022, challan stands presented in the learned Trial Court. Lastly, it is prayed that the instant bail application may be dismissed, as the petitioner has committed a serious offence and in case, at this stage, he is enlarged on bail, he may tamper with the prosecution evidence and may also flee from justice, so it is prayed that the instant bail petition may be dismissed.

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

5. Learned counsel for the petitioner has argued that the petitioner is resident 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 him behind the bars. He has further argued that the instant petition may be allowed and the petitioner may also be enlarged on bail.

6. On the other hand, learned Deputy Advocate General has argued that the petitioner has committed a serious crime and in case, at this stage, he is enlarged on bail, he may tamper with the prosecution evidence and may also flee from justice, so it is prayed that the bail application of the petitioner may be dismissed.

7. In rebuttal, the learned counsel for the petitioner has argued that the petitioner is resident 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 petitioner is not at all required by the police for investigation. The petitioner is joining and co-operating in the investigation, so the present bail application may be allowed.

8. At this stage, considering the fact that the petitioner is joining and co - operating in the investigation, he is not in a position to tamper with the prosecution evidence nor in a position to flee from justice, his custody is not at all required by the police, considering the fact that the petitioner is ready and willing to abide by the terms and conditions of bail, in case granted, the fact that the custodial interrogation of the petitioner is not at all required by the police, as he is joining and co-operating in the investigation and also considering the overall facts, which have come on record, and without discussing the same at this stage, this Court finds that the present is a fit case where the judicial discretion to admit the petitioner on bail, in the event of his arrest, is required to be exercised in his favour. Accordingly, the instant petition is allowed and it is ordered that the petitioner, in the event of his arrest, in case FIR No.84/2018, dated 17.7.2018, under Sections, 420, 467, 471, 120-B of the Indian Penal

Code, registered at Police Station, East, District Shimla, be forthwith released on bail on his furnishing personal bond to the tune of ` 25,000/- (rupees twenty five thousand only) with one surety in the like amount to the satisfaction of the Investigating Officer. The bail is granted subject to the following conditions:

- i. That the petitioner will appear before the learned Trial Court/police/authorities as and when required.
- ii. That the petitioner will not leave India without prior permission of the Court.
- iii. That the petitioner 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 petition is 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.

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