
(2022) 01 SHI CK 0070

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 129, 130, 131, 132, 133, 134, 137 Of 2022

Amir Khan And Others

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 24-01-2022

Acts Referred:

Indian Penal Code, 1860 — Section 147, 148, 149, 323, 341, 395
Code Of Criminal Procedure, 1973 — Section 154, 439

Citation : (2022) 01 SHI CK 0070

Hon'ble Judges : Satyen Vaidya, J

Bench : Single Bench

Advocate : Bhim Raj Sharma, Dinesh Thakur, Manoj Bagga

Final Decision : Allowed

Judgement

Satyen Vaidya, J

1. All these petitions are being decided by a common order, as common questions of law and facts are involved.

2. Petitioners are accused in case FIR No. 118 of 2021 dated 22.12.2021, registered at Police Station Lamba-Gaon, District Kangra, H.P. under

Sections 395, 341, 323, 147, 148, 149 of Indian Penal Code. Presently, the petitioners are in judicial custody.

3. Petitioners have approached this Court for grant of bail(s) under Section 439 Cr.P.C. on the grounds that a false case with ulterior purpose has

been registered against them. Petitioners are presently in judicial custody after initially having been remanded to police custody. The investigation of

the case is already complete. No further recoveries are to be effected from the petitioners. The petitioners have undertaken that they will abide by all

the terms and conditions, as may be imposed against them and shall not advance any inducement, threat or promise to the prosecution witnesses or any other person acquainted with the facts of the case.

4. In response, status report has been filed. It is stated that on 22.12.2021, the complainant made a complaint to the police, which was recorded under

Section 154 Cr.P.C., alleging inter-alia that he was working in Tyre Repair Workshop at Patti. Ashok Kumar, resident of Village Gandad was working

as a property dealer on the upper floor of the building, where the workshop of complainant existed. Ashok Kumar asked complainant and his friend

Onkar Chand to accompany him to village Gandad to attend a birthday party. On this, the complainant and Onkar Chand accompanied Ashok Kumar.

Complainant was a pillion on a motorcycle being driven by Ashok Kumar and Onkar Chand was following on his motorcycle. At about 7.00-7.15 PM

when they reached the market at Village Gandad, they found six persons standing there, who stopped the Bullet Motorcycle and asked Ashok Kumar

whether he was Goswami. On affirmation by Ashok Kumar, those persons confronted the complainant about his identification and asked him to leave

the place. Similarly, Onkar Chand was asked to leave the place. After sometime, an old person named Puran Chand came to them and informed that

Ashok Kumar was being beaten. The complainant and Onkar Chand went to the spot and many other persons had also gathered there. Those persons

had given beatings to Ashok Kumar with a stick. When people from the market gathered on the spot, all those persons fled away and took the Bullet

Motorcycle of Ashok Kumar bearing No. UK07-BQ-5210. On the basis of said complaint, case was registered and investigation was conducted. It

was concluded after investigation that the petitioners had committed offence of dacoity and the case was found to be under Sections 323 and 395

IPC.

5. I have heard the learned counsel for the parties and have also gone through the records carefully.

6. Though, the evidence collected by investigating agency is not to be scanned minutely at the stage of adjudication of these bail petition(s), still the

Court can look into the material collected by the investigating agency to access the seriousness of the allegations leveled against the bail petitioners.

7. As per complainant himself, he and Onkar Chand were allowed to leave the

place by the petitioners and it was only Ashok Kumar, who was stopped by them. Had the petitioners intent to commit decoity, they would not have differentiated between Ashok Kumar and others, especially when Onkar Chand was also having a motorcycle. It has also not alleged against the petitioners that they had taken any valuable from Ashok Kumar on the contrary such allegations have not been found to be genuine during investigation. At the time of hearing of these bail applications, it has been stated on behalf of the respondent-State that probably some of the petitioners had some dispute with Ashok Kumar relating to financial matters.

8. The investigation in the case is already complete and nothing further is to be recovered from the petitioners. The motorcycle belonging to Ashok

Kumar has already been recovered. It is not the case of the respondent that the release of petitioners on bail shall affect the trial adversely.

9. The respondent-State has expressed apprehension that the petitioners, in case released on bail, may influence or overawe the prosecution

witnesses. Though, no reasonable grounds have been made out expressing such apprehension, yet, the same can be taken care of by imposing

appropriate conditions against the petitioners. No previous criminal history of the petitioners has been pointed out. No fruitful purpose shall be served

by keeping the petitioners in custody for indefinite period, as the trial is likely to take considerable time before completion.

10. In view of given facts and circumstances of the case, petitions are allowed and the petitioners are ordered to be released on bail in case FIR No.

118 of 2021 dated 22.12.2021, registered at Police Station Lamba-Gaon, District Kangra, H.P. under Sections 395, 341, 323, 147, 148, 149 of Indian

Penal Code, on their furnishing personal bonds in the sum of Rs. 25,000/- each with one surety in the like amount each to the satisfaction of the

learned Judicial magistrate 1st Class, Jaisinghpur and in his absence to the satisfaction of any other Judicial Magistrate at Dharmshala, District

Kangra, H.P. This order shall be subject to following conditions:-

i) That the petitioners shall join the investigation and when required and shall regularly appear before learned trial Court on each and every date of hearing.

ii) That the petitioners shall not directly or indirectly make any inducement,

threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police.

iii) That the petitioners shall not in any manner tamper with the prosecution evidence.

iv) That any indulgence of petitioners in criminal activities during the continuance of this order shall entail cancellation of the bail granted to the petitioners.

v) That the petitioners shall not leave India till conclusion of trial without permission of the learned trial Court, if any.

vi) That in case of violation of any of the conditions, the bail granted to the bail applicants shall be liable to be cancelled.

11. Any observation made herein above shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the matter uninfluenced by any observation made herein above.