
(2012) 06 SHI CK 0109
In the High Court Of Himachal Pradesh
Case No : Criminal MP (M) No. 489 of 2012

Arun Verma

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 13-06-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 411

Citation : (2012) 06 SHI CK 0109

Hon'ble Judges : Kuldip Singh, J

Bench : Single Bench

Advocate : Surender Sharma, for the Appellant; Ruma Kaushik, Addl. A.G. with Mr. Vinod Thakur, Dy. A.G., for the Respondent

Judgement

Kuldip Singh, Judge

1. This judgment shall dispose of Cr.MP(M) No. 489 of 2012 and Cr.MP(M) No. 491 of 2012 filed by Arun Verma and Rameshwar Dass, respectively for releasing them on bail in FIR No. 5 of 2012 dated 30.5.2012 registered at Police Station, SV & ACB, Shimla-2, u/s 411 IPC. It has been stated in Cr.MP(M) No. 489 of 2012 that on 30.5.2012 Arun Verma was assisting and supervising the labour deployed by him in his house, at about 11.30 a.m. four police officials of the Vigilance Department visited the premises of the petitioner and recovered 42 full bags of cement on the pretext that the recovered cement bags were Government property. Arun Verma was raising construction. He had purchased the cement bags from a mason, who belongs to Bihar, who assured to provide cement at cheap rates as compared to market rates. Arun Verma purchased cement from mason and was not aware that cement so purchased was Government property.

2. The petitioners are innocent. It appears some jealous neighbour lodged a false complaint. Arun Verma also purchased some empty cement bags from said mason for collection of grit, sand etc. The police also recovered 41 empty cement bags. The petitioners on account of registration of the above case apprehend

their arrest.

3. It has been submitted that the petitioners are ready to join investigation and furnish bail bonds. It has also been submitted that no recovery is to be made from the petitioners. The submission has been made for releasing the petitioners on bail.

4. The status report has been filed in Cr.MP(M) No. 489 of 2012. It has been stated that a secret information was received and on this the house of the petitioners was searched at Anji/Shandlu and 42 bags of Ambuja Cement bags not for retail/resale H.P. Govt. supply were recovered alongwith similar 41 empty Ambuja cement bags. The construction work in the house of Rameshwar Dass was in progress. One open half cement bag was also recovered of similar type. The sampling and sealing was done on the spot. In this way 42 1/2 cement bags and 41 empty cement bags were recovered from the spot, thereupon the case was registered.

5. The petitioners after obtaining interim bail have joined the investigation but they are not disclosing from where they have procured the cement. It has been stated that in order to find out truth the custodial interrogation of the petitioners is necessary.

6. Heard and perused the record. Arun Verma in his petition has stated that he had purchased the cement from some Bihari mason, who promised that he would provide cement on cheap rates. Arun Verma in his petition has also stated that he had also purchased 41 cement bags from said mason for collecting grit, sand etc. Thus, the recovery of 42 1/2 cement bags and 41 empty cement bags from the premises of Rameshwar Dass in the presence of Arun Verma S/o Sh. Rameshwar Dass has not been denied. It has also not been denied that cement and empty bags recovered were not for retail/resale H.P. Govt Supply.

7. It appears Arun Verma has arranged the cement and the bags. The investigating agency has stated that the petitioners are not disclosing from where they have procured the cement and empty bags and, therefore, custodial interrogation is necessary to find out the truth and to trace out the other persons connected with the commission of offence. The use of Government cement in private construction in connivance with custodians of the Government cement is increasing. It is in public interest to trace out the other persons connected with the commission of offence. In these circumstances, Arun Verma has failed to make out a case for grant of bail at this stage. However, Rameshwar Dass has made out a case for grant of bail u/s 438 Cr.P.C.

8. In view of above, Cr.MP(M) No. 489 of 2012 filed by petitioner Arun Verma is dismissed. Cr.MP(M) No. 491 of 2012 filed by Rameshwar Dass is allowed. In the event of arrest of Rameshwar Dass, he be released on bail in FIR No. 5 of 2012 dated 30.5.2012 registered at Police Station, SV & ACB, Shimla-2, u/s 411 IPC, on his furnishing personal bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of Arresting Officer with the condition that

Rameshwar Dass shall continue to join the investigation as and when called by the Investigating Officer and shall not hamper the investigation and tamper with the prosecution evidence in any manner. The observations made in this judgment are for disposal of bail petitions only and the same shall not be construed as an expression of opinion on the merits of the case.

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