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**(2011) 07 SHI CK 0071**

**In the High Court Of Himachal Pradesh**

**Case No : Criminal M.P. (M) No. 541 of 2011**

Chander Kant and Others

APPELLANT

Vs

State of H.P.

RESPONDENT

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**Date of Decision : 28-07-2011**

**Acts Referred:**

Constitution of India, 1950 — Article 19

Penal Code, 1860 (IPC) — Section 147, 148, 149, 188, 323

**Citation : (2011) 07 SHI CK 0071**

**Hon'ble Judges : Dev Darshan Sood, J**

**Bench : Single Bench**

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**Judgement**

Dev Darshan Sud, J.—This petition has been preferred by five of the Petitioners, namely, Chander Kant, Nageen Sharma, Pawan Kumar, Manish Sharma and Prem.

2. The Petitioners pray for grant of bail. They have been charged for offences under Sections 147, 148, 188, 323, 333, 353 read with Section 149 IPC in a common FIR No. 140 of 2011, registered with Police Station, West, Shimla on 6.7.2011.

3. The prosecution case is that on a request having been made by the Principal of Rajeev Gandhi Government Degree College, Shimla, police force under the supervision of Inspector Shakuntla Sharma was deployed at the College. At about 11.00 A.M. she along with Constables Mukesh Kumar, Naresh Kumar, was present in the Campus premises of Rajeev Gandhi Government Degree College, Shimla. About 60-70 students of ABVP, headed by Ashish Sigta, Vikas, Ankush Banta, Arun Thakur, started raising slogans. At the same time, about 70-80 students headed by Chanderkant Verma, Nagin Sharma, Kapil and Yogender, belonging to SFI Organization, came from Chaura Maidan side. They were armed with sticks and stones. A riot and clash ensued. The police personnel posted were injured and public property was damaged. The Petitioners were arrested along with the others in connection with the offences as detailed in the FIR. The Petitioners' bail applications have been rejected by the Additional Sessions

Judge, Fast Track Court, Shimla.

4. Petitioners now seek to be admitted to bail on a number of contentions. Having perused the pleadings, I do not find any ground urged as being acceptable for the reasons that organizing political activities inside or outside the Educational Campus, if permitted, is not a licence to riot and cause injuries to the police personnel, public at large or to damage public property. True that the Constitution guarantees the right of Association and Expression under Article 19, but at the same time, it is subject to reasonable restrictions, one of them being respect for the life and property of the person of other citizens, law and order etc.

5. These are indeed unfortunate cases where Young men who should be devoting their time to academic pursuits and building of a career have been arrested and prosecuted for offences relating to public peace and tranquility. What I say would be apparent and evident from the submissions made by the learned Additional Advocate General, each of the Petitioners herein stand charged in a number of cases which are pending in Court at Shimla:

Sr. No.

Name

Father's Name & Address

Mobile No.

Organization

Previous Cases

1.

Chander Kant

Hans Raj Verma r/o Vill. Chatinal P.O. Chhatri Tehsil Thunag Distt. Mandi HP  
Age-21 Years, a/p Student B.A. IIIrd GC Kotshera

98179-89400 & 94184-24279

SFI President Kotshera

1. Case FIR No. 118/09 DT.15-7-09 U/S 341, 147, 148, 149, 323 IPC P.S. West Shimla  
2. Case FIR No. 146/10 DT.7-7-10 U/S 147, 149, 323, IPC PS West Shimla  
3. Case FIR No. 151/10 DT.9-7-10 U/S 147, 148, 149, 323, IPC P.S. West Shimla

JMIC-3, 8.1.2010. 30.11.2010 CJM, Shimla

2.

Nageen Sharma

Jagat Ram r/o Vill. Sidhoti PO

9816155548 & 9816419977

SFI

1. Case FIR No. 146/10 , DT.7-7-

JMIC-3, 8-10-2010

Panog, Tehsil

10 U/S 147,

Shilai

149,323,I

Distt.

PC PS

Sirmour HP

West

age-20 years a/p Student G.C.

2.

Shimla. Case FIR NO.

CJM,

Kotshera, BA IIIrd

151/10 Dt. 9-7

28.8.10.

10 U/S 147, 148,

149,323,

IPC, P.S.

West

Shimla

3.

Pawan

Paras Ram

9418575741

ABVP

1.

Case FIR

JMIC-3,

Kumar

r/o Vill. Gannu PO Nanj, PS & TehKarsog, Distt. Mandi

& 9817578408 & 9817834462

No. 118/09 DT. 15-7-09 U/S 341,147,

8.1.2010

HP age 22years a/p Student

148, 149,323, IPC PS

M. Com. IIIrd

West

Sem.HPU

Shimla

Shimla

2.

Case FIR

CJM,

No.

30.11.2010

146/10 DT.7-7-10

U/S 147, 149, 323,

IPC, PS

West

Shimla

3.

Case FIR

CJM,

No.

28.8.2010

151/10 Dt.9.7.10

U/S 147, 148,

149,323,

IPC P.S.

West

Shimla

4.

Manish

Sh. Guru

1.

Case FIR

JMIC-3,

Sharma

Dutt Sharma

No.

29.8.08

r/o Vearchwad PO

132/08 DT.22.5.0

Surajpurwadi The.& P.S.

8 U/S 147, 148,

Sarkaghat, Distt. Mandi

149,323,5 06, IPC

HP age 27 years a/p Student M.

2.

Case FIR No. 70/09 Dtd.1.5.0

JMIC-3, 11.12.2009

Tech. 6th Sem. HPU

9 U/S 353, 147,

Shimla

149, 188,

506, IPC

3.

Case FIR

No.

JMIC-3,

155/09 Dtd.

11.12.09

21.8.09

U/S 353, 332, 341,

152, IPC

4.

Case FIR

No. 27/10 Dtd.

JMIC-3, 29.6.2010

12.4.10

U/S 147, 149, 323, 5

04, 506,

IPC & 3

PDPP Act.

5.

Case FIR

No. 43/11 Dtd.

Ld. CJM, Shimladt.

22.2.11,

2.7.11

U/S 451, 147, 149,

353, 504,

506, IPC

6.

Case FIR

JMIC-3,

No.

12.7.2007

144/07, Dtd.

19.6.07,

U/S 147, 148, 149,

353, 332,

IPC and 3

PDPP Act.

7.

Case FIR

JMIC-3,

No.

Dt.

94/10, Dtd.

29.6.2010

24.4.10

U/S 341, 323, 34,

IPC

8.

Case FIR No. 114/11, Dtd.

Pending Investigat ion

22.5.11

U/S 341, 147, 149,

323, IPC

9.

Case FIR

G.P. Neri

No.

dt.

128/11, Dtd.8.6.1

22.6.11.

1 U/S 341,323,

34, IPC

PS West.

5.

Prem

S/O Chhotu Ram R/O Devthi,Teh. Rampur , District

SFI

1.

Case FIR No. 118/09 Dt. 15.7.09

JMIC-3, 8.1.10

Shimla, HP

U/S 341, 147, 148,

149, 323,

506, IPC

2.

Case FIR

JMIC-3,

No.

8.1.10

146/10,

Dt.

7.7.10,

U/S

147,

149,

323,

IPC

3.

Case



FIR

CJM,

No.

28.8.10

151/10,

Dt.

9.7.10,

U/S

147,

148,

149,

323,

IPC

P.S.

West.

6. Over and above the cases catalogued above, they are now involved in the present case for more or less similar offences, disclosing a consistent pattern of indulgence in violence. It is undisputed before me that the Petitioners are in judicial custody for the last more than 21 days and that they are students either studying in the Himachal Pradesh University Campus or in the Rajeev Gandhi Government Degree College, Shimla. I was not inclined to admit the Petitioners to bail, but in view of the fact that they are of young age and the fact that their entire educational career is at stake, it would be in the fitness of things to allow them to mend their ways and to pursue their studies. Rather than pursuing violence as a means for expressing ideas they should take a leaf from the ideals set by the Father of the Nation Mahatma Gandhi that Apostle of peace and non-violence who communicated with the masses through Ahimsa. The Petitioners are admitted to bail on the following terms:

(a). That each of the Petitioners herein shall furnish a personal bond in the sum of Rs. 25,000/-with one suretyeach in the like amount to the satisfaction of the learned Additional Sessions Judge, Fast Track Court, Shimla.

(b). That each of the Petitioners shall undertake not to abscond from the jurisdiction of the learned Sessions Judge, Shimla.

(c). That each of the Petitioners shall join investigation as and when called for and shall not in any manner tamper with the prosecution evidence, threat,

overawe, influence, terrorize, intimidate prosecution witnesses or in any manner attempt to do so either directly or indirectly.

(d). The learned trial Court is directed to call the parent(s) of each of these students to execute a bond undertaking that these students shall not involve in such activities in future;

(e). The personal bonds furnished by them shall contain an undertaking that they shall not involve themselves in any anti-social/criminal activities in future. This condition has been imposed keeping in view the fact that each of them has multiple case pending against them.

(f). Those of the Petitioners who are studying in Himachal Pradesh University will not enter the Campus of Rajeev Gandhi Government Degree College, Shimla and neither will the students of Rajeev Gandhi Government Degree College, Shimla will enter the Campus of Himachal Pradesh University, Shimla. In case, their presence is required in either of the Campus, they shall inform the police in advance before they enter the Campus of either Institutions.

(g). That it will be open to the prosecution to apply for custodial interrogation of the Petitioners in case so desired.

(h). The Petitioners shall not be seen outside their respective Campus area after sunset.

(i). Any violation of these conditions shall be considered breach of this bail and the bail shall be liable to be cancelled. These conditions have been imposed keeping in view the fact that they should and ought to confine the irrespective studies.

(j). In case any of the Petitioners wish to leave Shimla, they shall inform the police in advance leaving their address, landline number, if any, and mobile number where they can be contacted.

(k). That the Petitioners shall apply for bail afresh when challan is put up in Court.

(l). In case of violation of any of these conditions, the bail shall stand forfeited and the case will be referred to this Court immediately. The Petitioners shall be liable to be arrested and taken into custody forthwith.

7. That it will be open to the prosecution to apply for such other or further modification/alteration of condition(s) which may be required in the interest of justice and in the facts and circumstances of the case. For this purpose it will be open to the State to move this Court.

8. This application is disposed of in the above terms.