

**(2023) 06 SHI CK 0093**

**In the High Court Of Himachal Pradesh**

**Case No :** Criminal Miscellaneous Petition (Main) No. 1326 Of 2023

Daljeet Rana Alias Kaka

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

**Date of Decision :** 28-06-2023

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 439  
Indian Penal Code, 1860 — Section 34, 201, 302, 365  
Arms Act, 1959 — Section 25, 27

**Citation :** (2023) 06 SHI CK 0093

**Hon'ble Judges :** Satyen Vaidya, J

**Bench :** Single Bench

**Advocate :** Sanjeev Kumar Suri, Sharmila Patial

**Final Decision :** Allowed

## Judgement

Satyen Vaidya, J

1. This is a successive bail petition under Section 439 of the Code of Criminal Procedure for grant of bail by the petitioner in case FIR No. 110 of 2021, dated 22.12.2021, registered under Sections 302, 365, 201 read with Section 34 of Indian Penal Code and Sections 25 and 27 of the Indian Arms Act, at Police Station, Bangana, District Una, H.P.

2. Earlier bail application of the petitioner being Cr.MP(M) No.1268 of 2022 was ordered to be dismissed as withdrawn by this Court on 01.07.2022. After almost one year, petitioner has again approached this Court by way of instant petition.

3. The petitioner was arrested on 24.12.2021 and is in custody since then. Petitioner is under trial before learned Additional Sessions Judge -II, Una, District Una, H.P. Out of total 39 cited prosecution witnesses, only 18 witnesses have been examined till date. The trial is now fixed for recording of further prosecution evidence on 28.08.2023.

4. The case as set-up by the prosecution is that deceased Sunil Kumar had died

as a consequence of injuries received by him when he was hit by a bullet shot fired by one Surinder Singh (a co-accused in the case) during the intervening night of 16/17.12.2021. It is alleged that the deceased had left his house at about 8.30 p.m. on 16.12.2021 on the pretext that he was going to the fields in the company of petitioner to guard the crop from wild animals. He did not return back and his mobile phone was also switched off. Next morning, a search was conducted all around the area by the family members and villagers, but no clue was found. The brother of deceased reported the matter to the police. Police also continued the search. On 22.12.2021, police received the information that a body was lying near rain-shelter in village Matyana. The body was identified to be that of deceased Sunil Kumar. The investigation was carried after incorporating Section 302 IPC in already registered FIR. On 24.12.2021, petitioner disclosed to the police that he alongwith deceased and Surinder Singh had gone to the field for keeping guard on the crops. Surinder Singh was carrying a gun and he had fired a bullet, which hit the deceased. Surinder Singh threatened petitioner that in case he disclosed the true facts to police or anyone, he would also meet the same fate and under such threat, petitioner just followed the dictates of Surinder Singh and helped him in disposing off the body by throwing it at village Matyana. Surinder Singh was also arrested. At the instance of Surinder Singh certain facts are alleged to have been discovered, incriminating the accused persons.

5. It is contended on behalf of the petitioner that even as per the case of police, no act of omission or commission has been attributed to the petitioner, which caused the death of Sunil Kumar. It is further submitted that no motive has been ascribed to the petitioner for commission of offence. The only allegation against petitioner is with respect to the destruction of evidence by helping the assailant in disposing off the body of deceased Sunil Kumar. The petitioner is stated to be permanent resident of Village Dagrah, Post Office Sohari, Tehsil Bangana, District Una, H.P. Petitioner has undertaken to abide by all the terms and conditions as may be imposed against him.

6. On the other hand, learned Additional Advocate General has opposed the prayer. It is submitted that the petitioner is accused of a heinous crime and is not entitled to bail. In case of release of petitioner on bail, there is likelihood of petitioner tampering with prosecution evidence.

7. I have heard learned counsel for the parties and have also gone through the records of the case carefully.

8. Perusal of the contents of detailed status report filed on behalf of the respondent-State, reveals that the allegation of causing death of deceased Sunil Kumar is against Surinder Singh (co-accused in the case). Petitioner is alleged to have helped the alleged assailant Surinder Singh in destroying the evidence. As per police case, enmity is alleged between Surinder Singh and deceased Sunil Kumar. There is no allegation that the petitioner had any enmity with deceased Sunil Kumar. Be that as it may, this Court at the stage of adjudicating bail

petition will not venture into minute scanning of the evidence collected during investigation. The aforesaid observations have been made only for the purpose of assessing the seriousness and gravity of allegations against petitioner.

Though, petitioner has been charged with commission of heinous offence, but mere accusation of such nature is not sufficient to deny the right of liberty. The nature of evidence collected to support the allegation also becomes material.

9. No criminal antecedents or history has been attributed to the petitioner. No motive has been ascribed to the petitioner. Petitioner has already suffered incarceration for almost one year and six months. The trial is not likely to be concluded within short span. Only 18 out of 39 prosecution witnesses have been examined till date. In the given facts of the case, the petitioner cannot be allowed to be incarcerated for indefinite period before conclusion of trial.

10. Petitioner is permanent resident of Village Dagrah, Post Office Sohari, Tehsil Bangana, District Una, H.P. and there is no likelihood of his fleeing/absconding from the course of justice. Though, learned Additional Advocate General has expressed apprehension regarding the possibility of petitioner tampering with prosecution evidence, however, no tangible material has been placed on record to support such contention. Even otherwise, such apprehension of respondent can be duly taken care of by imposing appropriate terms upon the petitioner.

11. Keeping in view the facts and circumstances of the case, the petition is allowed and petitioner is ordered to be released on bail in case FIR No. 110 of 2021, dated 22.12.2021, registered under Sections 302, 365, 201 read with Section 34 of Indian Penal Code and Sections 25 and 27 of the Indian Arms Act, at Police Station, Bangana, District Una, H.P., on his furnishing personal bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of learned trial Court. This order shall, however, be subject to the following conditions:

i) That the petitioner shall not indulge in any criminal activity and in the event of breach of this condition, the bail granted to the petitioner in this case, shall automatically be cancelled.

ii) That the petitioner shall not leave the territory of India without express leave of Trial Court during the Trial.

iii). That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper with the prosecution evidence.

iv) That the petitioner shall regularly attend the trial of the case before learned Trial Court and shall not cause any delay in its conclusion.

12. Any observation made in this order 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 hereinabove.