
(2022) 11 SHI CK 0026

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 2349, 2350, 2351 Of 2022

Dilpreet Singh And Others

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 15-11-2022

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 302
Arms Act, 1959 — Section 25, 54, 59

Citation : (2022) 11 SHI CK 0026

Hon'ble Judges : Satyen Vaidya, J

Bench : Single Bench

Advocate : Ajay Chandel, Narender Thakur

Final Decision : Disposed Of

Judgement

Satyen Vaidya, J

1. All these petitions are being decided by a common order as these arise out of the same FIR and also involve common questions of facts and law.

2. Petitioners are accused in case FIR No. 107 of 2021, dated 01.04.2021, registered at Police Station Sadar Una, District Una, H.P. under Sections 302, 120-B IPC and Sections 25-54-59 of the Arms Act. Petitioners are under-trials and are facing trial before the learned Additional Sessions Judge (I), Una, H.P.

3. A case was registered vide FIR No. 107 of 2021, dated 01.04.2021, at Police Station Sadar Una, District Una, H.P. under Sections 302, 120-B IPC and Sections 25-54-59 of the Arms Act with the allegations that on 01.04.2021 at about 8.00 A.M. the deceased Vipin Kumar son of Sh.Ram Krishan was busy in agricultural pursuits in his field alongwith his labourer. At about 8.30 A.M. petitioners alongwith their co-accused Jaswant Singh came on the spot in a green coloured maruti gypsy bearing registration No. HP-20-6188, which was being driven by petitioner Gurpreet Singh and the co-accused of petitioners Jaswant Singh was holding a 12 bore double barrel gun in his hand. Jaswant Singh alighted from the

vehicle and shouted at the deceased Vipin Kumar that he would be killed. All the petitioners also came out of the vehicle and openly stated that the land belonged to them and he (Vipin Kumar) should be killed. At this, Jaswant Singh alias Bittu fired at the deceased Vipin Kumar from his double barrel gun. The deceased Vipin Kumar fell on the ground. The labourers working in his field were also scared away by the petitioners and Jaswant Singh. All the accused persons then fled away from the scene in their vehicle. The motive for crime is stated to be the enmity between Jaswant Singh and Vipin Kumar with respect to the land, which was subject matter of litigation also.

4. On completion of investigation, the challan was filed. Petitioners were charged for offences under Sections 302, 120-B IPC and Sections 25-54-59 of the Arms Act and are presently facing trial before the learned Additional Sessions Judge (I), Una, H.P.

5. Petitioners have prayed for grant of bail on the grounds firstly that a number of witnesses have been examined but nothing incriminating has been stated against them and secondly, that the petitioners are in custody since 01.04.2021 and the delay in trial is violating their constitutional right of expeditious trial.

6. I have heard learned counsel for the petitioner and learned Deputy Advocate General for the State and have gone through the records.

7. Petitioners have been charged for offences under Sections 302 and 120-B IPC and Sections 25-54- 59 of the Arms Act. The allegations against petitioners are very serious. After having found prima-facie material against the petitioners, learned trial Court has framed charges against them. The prosecution evidence is in progress. The status report reveals that 13 out of 30 witnesses have been examined before preparation of such report which bears the date 10.11.2022. It is also revealed from the status report that trial was further fixed for examination of prosecution witnesses from 9.11.2022, 10.11.2022 and 11.11.2022. More witnesses must have been recorded during this period.

8. Petitioners have not been able to place on record any material to suggest that the trial of the case was being intentionally delayed. Though, a person accused of any offence has constitutional right to expeditious trial, but availability of such right always depends on a number of factors which operate in our criminal justice delivery system. Unless the accused are able to show intentional or deliberate delay in conclusion of their trial, the reservation on their right to bail in serious offence like murder does not get diluted.

9. Petitioners are facing serious allegations. It is alleged against them that they criminally conspired with co-accused Jaswant Singh and killed the deceased Vipin Kumar by indulging in cold blooded murder. It is trite that the gravity and seriousness allegations/charges operate as detriment in grant of bail to the accused persons.

10. As noticed above, already a substantial number of witnesses have been

examined by the prosecution and in all probabilities the trial is going to be concluded within reasonable time. Even otherwise, learned trial Court is expected to conclude the trial on priority keeping in view the seniority of trials in its docket.

11. As regards the prayer of petitioners to grant them bail, keeping in view the statements of the prosecution witnesses already recorded, suffice it to say that this Court will not appreciate the prosecution evidence at this stage for the reasons that such exercise will prejudice the trial. The prosecution evidence is to be appreciated by the learned trial Court at appropriate stage.

12. Learned counsel for the petitioners has placed reliance on an order dated 31.10.2022 passed by a co-ordinate Bench of this Court in Cr.M.P.(M) No. 2252 of 2022, titled as Sanjeev Kumar @ Sanju vs. State of H.P., to lay stress on the argument that on the ground of expected delay in trial, the bail was granted in a case involving offence under Section 302 IPC. There is no dispute as to proposition of law, but the petitioners cannot draw any benefit from the aforesaid order passed by a co-ordinate Bench of this Court for the reason that such order was passed in the peculiar facts of that case. Noticeably, only 4 out of 35 prosecution witnesses had been examined in the said case when the order relied upon by the petitioners was pronounced. As noticed above, in the instant case, a large number of witnesses have already been examined.

13. Keeping in view the entirety of the facts and circumstances, all the bail petitions are dismissed.

14. Any observation made hereinabove 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 observations made hereinabove.

Petitions stand disposed of.