
(2000) 06 SHI CK 0004
In the High Court Of Himachal Pradesh
Case No : Cr.M.P. (M) No. 579 of 2000

Gopal Dass Verma

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 20-06-2000

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 409, 420, 467, 468

Citation : (2001) 1 ShimLC 89

Hon'ble Judges : M.R. Verma, J

Bench : Single Bench

Advocate : G.D. Verma, B.N. Sharma and Y.P.S. Dhaulta, for the Appellant; K.D. Batish, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

M.R. Verma, J.—Since both these applications (Cr. M.Ps. (M) Nos. 586 & 579 of 2000) for grant of bail arise out of the same F.I.R. No. 58 of 2000 dated April 5, 2000 under Sections 409, 420, 467, 468, 471 and 120B of the Indian Penal Code registered at Police Station East Shimla, therefore, both are disposed of by this common order.

2. I have heard the learned Counsel for the accused and the learned Additional Advocate General for the State and have also gone through the investigation records and police reports.

3. The Petitioners/accused (hereafter referred to as the "accused") have prayed for their release on bail on the grounds that they are innocent, presently they are in judicial custody, hence no more required by the investigating agency for the purpose of investigation and that they are ailing persons.

4. The case of the prosecution against the accused persons, in brief, is as follows. On April 5, 2000 Chief Fire Officer, Shimla lodged the aforesaid First Information Report alleging that one Sant Ram, Cashier of his office had misappropriated a sum of Rs. 8,61,468/- on the basis of forged bills. On investigation so far

conducted it has been found that instead of the amount initially reported as misappropriated by Sant Ram a sum of Rs. 35,73,560/- was misappropriated by various officials including the bail Petitioners. According to the prosecution, since the investigation is still going on, therefore, the misappropriated amount as also the number of accused/co-conspirators in the commission of the offences is, in all probabilities, likely to increase.

5. At this stage, I am not inclined to express any opinion on the merits and demerits of the case. Suffice to say that the investigation is in progress and the allegations against the accused are, prima facie, not baseless or unfounded, therefore, the plea that the accused are innocent and, therefore, entitled to bail, cannot be accepted at this stage.

6. There is nothing on the record to support the contention of accused Jagan Nath Sharma that he is an ailing person suffering from any serious disease. Therefore, he does not deserve to be released on bail on the alleged ailment.

7. So far as accused Gopal Dass Verma is concerned, it is not disputed that he is suffering from diabeties etc. since long. The police report, however, reveals that he is provided medical treatment in Indira Gandhi Medical College & Hospital, Shimla a State level institution and he is to be removed to P.G.I. Chandigarh for check up on 21.6.2000. Thus, evidently, he is being provided best possible medical facilities. Therefore, his illness ipso facto is no ground to release him on bail if his detention is required in the interest of unhampered investigation and justice.

8. It is true that the accused persons are presently in judicial custody and their custodial interrogation is over. It has, however, to be kept in view that completion of custodial interrogation is not the end of investigation. In this case as the investigation is progressing, the misappropriated amount is swelling and so is the number of the accused. The material to substantiate the disclosures on interrogation is yet to be collected and traced in its entirety. It is clear from the investigation records that the process of unearthing the evidence is still on and cannot be permitted to be hampered.

9. Accused Gopal Dass, admittedly, had been the President of the Non-Gazetted Officials Federation of State of Himachal Pradesh and is Vice President of All India Employees Federation at National level. Therefore, he is apparently in a position to hamper the investigation by winning over the persons who are in a position to state about the commission of the alleged offences as claimed by the investigating agency in its report.

10. Accused Jagan Nath Sharma had already filed an application for grant of bail being Cr. M.P. (M) No. 505 of 2000 which was dismissed by this Court on May 25, 2000. While deciding the said petition, this Court has observed as follows:

4. The investigation is still on and different accused/suspects are being arrested by the police at different stages of the investigation. Keeping in view the amount

involved, the nature of offence, punishment provided for and the fact that the investigation is still going on in the case, it will not be proper to release the accused on bail at this stage.

11. The above observations are still relevant and there had been no material change in the circumstances which may persuade this Court to grant bail to the accused. On the contrary at the time of disposal of the said Cr.M.P. (M) the detected misappropriated amount was Rs. 25,37,471/- which is Rs. 35,73,560 at present.

12. Therefore, having regard to the nature of offences, the amount involved, the punishment provided for, the investigation being in progress and the likelihood of the investigation being hampered by the accused persons if released on bail, I am of the view that the accused are not entitled to be released on bail at this stage.

13. As a result, both these applications are dismissed. The investigating agency, however, is directed to expedite and complete the investigation as expeditiously as possible and the Respondent-State is directed to ensure that the accused persons are provided proper and timely medical treatment as and when so required. A copy of this order be sent to the State Government through its Chief Secretary for information and compliance.