
(2010) 02 SHI CK 0002
In the High Court Of Himachal Pradesh
Case No : Criminal MPs (M) No. 105 of 2010

Gurdev Singh

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 23-02-2010

Acts Referred:

Arms Act, 1959 — Section 25, 54, 59
Criminal Procedure Code, 1973 (CrPC) — Section 439
Evidence Act, 1872 — Section 27
Penal Code, 1860 (IPC) — Section 34, 380, 382, 392, 397

Citation : (2010) 02 SHI CK 0002

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Surinder Singh, J.—The Petitioner is an under-trial prison facing trial in FIR No. 154 of 208 dated 30th June, 2008, under Sections 392, 397, 452, 458 of the Indian Penal Code and also u/s 25 of the Arms Act, registered in Police Station, Nalagarh, District Solan.

2. Earlier he had moved an application in this Court for seeking bail, which was dismissed as withdrawn on 25th May, 2009. Now, the instant application has been moved u/s 439 of the Code of Criminal Procedure for enlargement on bail.

3. In nutshell the facts can be narrated thus. During the intervening night of 29th/30th June, 2008, Assistant Manager of "Ardhana Wine Company", Randeep Singh was sleeping in his room, three persons broke-open the door and entered in his room. Hari Chand, Cook, also came there, he was given beatings with a Base-bat as they asked keys and cash. They brandished revolver and committed the theft of Rs. 2,30,000/- which were kept in the bed-box.

4. The report was lodged by said Randeep Singh to the police. The medical examination of Hari Chand was got conducted by the police. The broken pieces of base-bat and door alongwith bolt were taken into possession. The police

prepared the site plan and recorded the statements of the witnesses.

5. On 24th July, 2008 the local police was informed by the Punjab Police that accused Kulvinder Singh alias Sonu, Ravinder Singh alias Joga Singh, Jinder Pal alias Jindi and Mandeep Singh alias Pappo were arrested in FIR No. 205 of 2007 u/s 382 read with Section 34 of the Indian Penal Code in Police Station, Noor Mehal, District Jalandhar. During their interrogation they revealed that the Petitioner herein had supplied mobiles to each of them with the direction to speak to him on the telephone numbers given to them, as some dacoity was to be committed in the area of Himachal Pradesh. Thereafter all of them assembled at Bharatgarh and contacted Dr. Shiv Kumar, Ram Singh and Mesi alias Harmesh and hatched a conspiracy to commit the dacoity in the office of "Ardhana Wines". They went on recce to see and examine the security system in the office of the complainant and later committed the dacoity. Out of the loot, an amount of Rs. 20,000/- was kept by Petitioner Gurdev Singh.

6. Production warrants of the Petitioner and other accused persons were obtained on 13th August, 2008. They were arrested in this FIR. The bag in which the cash was kept was got recovered by Mandeep Singh pursuant to his statement recorded u/s 27 of the Evidence Act from Bajaha Khurd (Punjab) and it was taken into possession by the police. Ravinder Singh alias Joga absconded from the judicial custody and is a Proclaimed Offender. The police also took into possession the call details of telephones of the accused persons.

7. Petitioner Gurdev Singh is reported to have a criminal history and habitual offender. He is an accused in following cases in various Police Stations in Punjab:

- 1) FIR No. 117 of 2005, u/s 380 IPC, Police Station, Jalandhar;
- 2) FIR No. 131 of 2005 under Sections 399, 402 IPC and 25, 54-59 of the Arms Act, Police Station, Jalandhar; and
- 3) FIR No. 90 of 2001 u/s 25, 54-59 of the Arms Act, Police Station, Lambra.

8. He is alleged to be a master-mind for committing the dacoity in the instant case. The details of telephone calls indicate that the other accused persons were in contact with him throughout the entire episode. The amount which fell in his share was spent. His bail was also rejected on merits by the learned Additional Sessions Judge, Solan and twice by the learned Sessions Judge.

9. Learned Counsel for the Petitioner vehemently argued that the Petitioner is not connected in the instant case in any way as he is suffering from 100% disability because of loss of functions in relation to the eyes and has a stiff knee, to substantiate this fact the photocopies of the disability certificates for the years 1995 and 2008 have been placed on record.

10. As already stated above, prima facie the Petitioner appears to have master-mind in dacoity and he used the co-accused to execute the plan. Therefore, disability as alleged is of no consequence. Further, the photographs on both

these disability certificates are different. The disability certificate issued on 16th February, 1995 shows his age as 29 years and in the certificate issued on 17th November, 2008, his age has been shown to be of 48 years. The mark of identification is also different and in the former certificate he is a Sikh gentleman and in the later is a clean shaven person. Therefore, the point made by the learned Counsel for the Petitioner in the above circumstances, is of a little consequence and in my opinion the Petitioner has no case for bail. Accordingly, the petition is dismissed.