

(2011) 11 SHI CK 0026
In the High Court Of Himachal Pradesh
Case No : Cr.M.P. (M) No. 916 of 2011

Harjeet Singh Sodhi

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 22-11-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 439
Penal Code, 1860 (IPC) — Section 323, 342, 395

Citation : (2011) 11 SHI CK 0026

Hon'ble Judges : Kuldip Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Kuldip Singh, Judge

1. This is an application u/s 439 Cr.P.C. for releasing the petitioner on bail in FIR No. 42 of 2009 dated 9.5.2009 registered at Police Station, Kandaghat under Sections 395, 323, 342 IPC.

2. It has been stated in the application that the petitioner is in custody for the last more than 21/2 years. The allegations against the petitioner set out in the FIR registered at the instance of Rakesh Kumar are that on 8.5.2009 the complainant was approached by some persons for a tour to Shimla, Kufri. The complainant those days was driving Innova Car No. HR-68-7167 of one Bhawan Dass. The tour was settled for Rs. 2,700/-. The complainant started at about 1.00 p.m. to Shimla, he went to Kufri and when he was returning to Chandigarh the occupants of the car asked him to proceed to Chail. On this, the complainant started towards Chail and while on his way from Chail to Solan, Satbeer asked the complainant that Jaswinder was feeling to vomit. The complainant stopped the car and started urinating on the side of the road. Lovely caught hold him and asked his companions to tie him and snatch his belongings as the car was to be taken to U.P.

3. The occupants of the car snatched the mobile phone of the complainant, purse, dragged him 15-20 steps, tied him with a tree and pasted tape on his mouth and fled away towards Solan. The complainant freed himself after about 30 minutes and knocked at a nearby house and disclosed the incident. The police was informed at about 11.50 p.m. As per allegation, the complainant was deprived of his mobile, purse containing Rs. 2,700/- and Innova car. On this case was registered. After investigation of the case, challan has been submitted in the court. It has been submitted that prosecution has led the evidence, the case has been fixed 14 times for recording the statements of accused and now next date of hearing is fixed on 25.11.2011. The prayer has been made for releasing the petitioner on bail.

4. The status report has been filed and application has been opposed. It has been submitted that in all five accused are facing trial and all of them are in judicial lock up since 14.5.2009. The accused Harbeer Singh alias Satbeer Singh has absconded. It has been submitted that the petitioner along with co-accused have committed serious offence. The bail application of the petitioner Cr.MP(M) No. 399 of 2010 has been dismissed by this Court on 7.5.2010. There is no change of circumstance, the trial is at advanced stage and, therefore, the petitioner is not entitled to bail.

5. I have heard the learned counsel for the parties and perused the record. In all there are six accused, out of them five are facing trial and one Harbeer Singh alias Satbeer Singh has absconded. The allegations against the petitioner are serious, his bail application has been dismissed on 7.5.2010. The prosecution has already led evidence, the case is fixed for recording statements of accused u/s 313 Cr.P.C. There is no change of circumstance, hence keeping in view the seriousness of the offence, the petitioner is not entitled to bail.

6. It has been stated in the bail application that case has been adjourned 14 times for recording the statements of accused u/s 313 Cr.P.C., if it is so, then it is not proper for the Judicial Magistrate not to record the statements u/s 313 Cr.P.C. of the accused. The Judicial Magistrate is directed to record the statements of the accused in case arising out of FIR No. 42 of 2009 dated 9.5.2009 registered at Police Station, Kandaghat if till now he has not recorded the statements of accused under Sections 313 Cr.P.C. and decide the case as early as possible. A copy of this judgment be sent to the Judicial Magistrate for compliance.

7. In view of above discussion, there is no merit in the petition which is accordingly dismissed.