

(2020) 09 SHI CK 0105

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition No. 1183 Of 2018

Hitesh Gandhi

APPELLANT

Vs

Central Bureau Of Investigation

RESPONDENT

Date of Decision : 08-09-2020

Acts Referred:

Citation : (2020) 09 SHI CK 0105

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Sidharth Luthra, Jyotirmay Bhatt, Anshul Bansal, Anshul Attri

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. Pending adjudication of his regular bail petition, the petitioner-applicant has moved instant application for grant of interim bail for a period of 30 days. The prayer for interim bail has been sought due to demise of mother of the petitioner, who left for heavenly abode on 5.9.2020. It has been averred in the application that the petitioner is the only son of his parents and, therefore, his presence at his home is necessary for performing last rituals of his deceased mother. An application for interim bail moved by the petitioner before learned trial Court was allowed only for performing the cremation on 5.9.2020.

2. On issuance of notice of this application, the respondent has filed status report wherein though facts have not been disputed, however, prayer for grant of continuous interim bail to the petitioner has been objected. It has been submitted that in case of grant of continuous interim bail, the petitioner may flee from justice, may influence the prosecution witnesses, tamper the documentary evidence and may win over the witnesses. A further apprehension has been expressed that the petitioner in case of enlargement on continuous interim bail may come in close contact of the persons infected with COVID-19, which may in turn affect the fellow jail inmates.

3. The Court cannot be oblivious to the fact that the petitioner being the only son of his parents has to perform the last rituals of his deceased mother. The apprehensions expressed by the respondent about petitioner's influencing the investigation/witnesses, tampering with the evidence at this stage cannot be ruled out as while disposing his earlier bail petition No. Cr.MP(M) No. 209 of 2020, a Co-ordinate Bench of this Court vide judgment dated 29.6.2020 had observed as under:

"The magnitude of the scam is significant. The accused thwarted the government's efforts to create a level playing field for the underprivileged students belonging to the weaker sections of the society. Let CBI investigate on material aspects."

4. While considering the prayer of the petitioner for grant of interim bail to perform last rituals of his deceased mother, the current prevailing Covid-19 pandemic also cannot be ignored. The apprehensions expressed by the respondent about health and welfare of jail inmates are genuine. Accordingly, the petitioner is ordered to be taken in proper custody to his home at Mohali, Bhatti Colony, Navashehar (Punjab) for performing 'Chautha Ceremony' of his deceased mother on 8th September, 2020, 'Phool Ceremony' on 9th September, 2020 today itself i.e. 8.9.2020. After the 'Phool ceremony' scheduled for tomorrow i.e. 9th September, 2020, the petitioner be again lodged in jail, whereafter he be taken to Haridwar in police custody on 14th September, 2020 for 'Asthi Visarjan' on 15th September, 2020 from where he will be taken to his home at Mohali, Bhatti Colony, Navashehar (Punjab) for 'Kriya' to be held on 16th September, 2020 and thereafter he will be brought back to jail. On 19th September, 2020 in police custody, petitioner will be again taken to his aforementioned home for 'Braham Bhoj' and after completion of the rituals, he will be brought back to the jail. During the aforesaid period in question the petitioner shall restrict his activities only in performing last rites of his deceased mother. Order in this regard be issued to the Superintendent of Sub Jail, Kaithu, District Shimla.

With the aforesaid observations, the application is accordingly disposed of. It is clarified that observations made above are only for the purpose of consideration of instant application and will have no impact upon pending regular bail petition.

Authenticated copy of this judgment duly authenticated by the Secretary be supplied to learned Counsel for the parties, if so requested.