

(2012) 08 SHI CK 0096

In the High Court Of Himachal Pradesh

Case No : Criminal M.P. (M) No. 687 of 2012

Jagdev Singh, Nand Singh (Ex-Ward Panch) and Radha Devi

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 02-08-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 438, 439

Penal Code, 1860 (IPC) — Section 120(B), 406, 419, 420, 465

Prevention of Corruption Act, 1988 — Section 13(2)

Citation : (2012) 08 SHI CK 0096

Hon'ble Judges : Kuldip Singh, J

Bench : Single Bench

Advocate : Naresh Kaul, for the Appellant; Vinod Thakur, Dy. Advocate General, for the Respondent

Judgement

Kuldip Singh, J.—This is an application u/s 439 Cr.P.C. for releasing the petitioners on bail in FIR No. 333/10 dated 4.10.2010, registered at Police Station, Nurpur, under Sections 406, 419, 420, 465, 467, 468, 471, 120(B) IPC and 13(2) of the Prevention of Corruption Act, 1988. It has been stated that petitioner No. 1 was the previous President and petitioners No. 2 and 3 were the previous ward members of Gram Panchayat, Haddal, Development Block, Nurpur. The petitioners have been falsely implicated in the case which has been registered on the complaint u/s 156(3) Cr.P.C.

2. It has been stated that the corruption and embezzlement allegations levelled by the complainants are wrong. It is not the case of the prosecution that no work was done. It has been stated that technicalities and irregularities were bound to crop up when the work was done with the consent of the majority of the people in their presence. It has been stated that petitioners No. 1 and 2 had earlier filed bail applications u/s 438 Cr.P.C. which were dismissed by learned Special Judge, Kangra at Dharamshala on 29.10.2010. The petitioner No. 1 filed bail application in the High Court which was dismissed on 18.11.2010. The petitioners No. 1 and 2 filed bail applications u/s 439 Cr.P.C. which were dismissed by learned Addl.

Sessions Judge (1) Kangra at Dharamshala on 12.7.2012. It has been submitted that no purpose will be served by detaining the petitioners. The submission has been made for releasing the petitioners on bail who are ready to furnish bail bonds in accordance with the directions of the Court.

3. The status report has been filed. It has been stated that case has been registered on the basis of complaint u/s 156(3) Cr.P.C and in pursuance of directions of learned Sub Divisional Judicial Magistrate, Nurpur. The complaint was filed by Subhash Singh and Garib Dass against Jagdev Singh and Nand Singh. In the complaint, it has been stated that the complainants were given job cards by Gram Panchayat Haddal by the accused. The accused started work at two places at a time under the muster rolls. The names of many persons have been wrongly entered in the muster rolls. The accused have forged the signatures of the several persons, got released the Govt. money and misappropriated the same. They had prepared forged documents. In the complaint submission has been made for taking action against the accused. The case has been registered against the accused. The petitioners No. 1 and 2 were arrested on 12.6.2012 and petitioner No. 3 was arrested on 25.6.2012.

4. It has come in the investigation that petitioners and one Tarsem Singh have prepared forged muster rolls and misappropriated MANREGA funds. They have shown dead persons in the muster rolls. The FSL report is still awaited. The investigation in the case is in progress. The submission has been made for rejection of the bail application.

5. Heard and perused the record. The case has been registered against the petitioners on the basis of complaint filed by two complainants u/s 156(3) Cr.P.C and in pursuance of order dated 30.9.2010 passed by learned Sub Divisional Judicial Magistrate, Nurpur District Kangra. The petitioners Nand Singh and Jagdev Singh had filed bail applications u/s 438 Cr.P.C. which were rejected by learned Special Judge, Kangra at Dharamshala on 29.10.2010. The petitioner Jagdev Singh filed Cr. MP (M) No. 1234 of 2010 in the High Court which was dismissed on 18.11.2010. The petitioners Jagdev Singh and Nand Singh again filed bail applications which were dismissed by learned Addl. Sessions Judge (1) Kangra at Dharamshala on 12.7.2012.

6. The allegations against the petitioners are very serious. They have prepared forged muster rolls and thereafter had withdrawn the amounts and misappropriated the same. The allegations are that even dead persons have been shown in the muster rolls. The works in question were of MANREGA. The Government is spending crores of rupees on development works through MANREGA. The purpose of MANREGA is also to provide jobs in rural area. The petitioners who were the representatives of the Panchayat breached the faith of the same persons who had sent the petitioners for representing them in the Panchayat. They prepared forged muster rolls and had withdrawn the Government amount and misappropriated the same for their own benefit. The petitioners No. 1 and 2 were arrested on 12.6.2012 and petitioner No. 3 was

arrested on 25.6.2012. The earlier anticipatory bail applications of the petitioners were rejected.

7. The petitioner No. 3 is a woman and therefore, she is entitled to special consideration for bail. In these circumstances, the petitioner No. 3 is admitted to bail in FIR No. 333/10 dated 4.10.2010, registered at Police Station, Nurpur, under Sections 406, 419, 420, 465, 467, 468, 471, 120(B) IPC and 13(2) of the Prevention of Corruption Act, 1988 on her furnishing personal bond in the sum of `50,000/- with one surety of the like amount to the satisfaction of any Judicial Magistrate at Nurpur with the condition that she will not hamper the investigation and tamper with the prosecution evidence in any manner nor she will influence any prosecution witness. The bail application of petitioners No. 1 and 2 is however, dismissed. The observations made in the judgment are for disposal of the bail application and it shall not be construed as expression of opinion on the merits of the case.

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