
(2011) 05 SHI CK 0044
In the High Court Of Himachal Pradesh
Case No : Criminal M.P. (M) No. 293 of 2011

Kashmir Singh

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 09-05-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 302, 323, 34

Citation : (2011) 05 SHI CK 0044

Hon'ble Judges : Kuldeep Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Kuldeep Singh, J.—This is an application u/s 439 Code of Criminal Procedure for releasing the Petitioner on bail in FIR No. 99 of 2009 dated 22.10.2009 registered at Police Station, Bhawarna, under Sections 302, 323/34 IPC.

2. It has been submitted that the Petitioner is an old man approximately 62 years and is a labourer, who has no other source of income on which his family can survive. The Petitioner, his wife, two sons were taken into custody on 22.10.2009. His wife has been released on bail on 22.2.2010 but the others are still in jail. The Petitioner earlier filed three bail applications, two of them were dismissed on 4.12.2009, 22.2.2010 by the learned Additional Sessions Judge, Fast Track Court, Kangra at Dharamshala and third application was dismissed on 25.3.2010 by the learned Additional Sessions Judge-I, Kangra at Dharamshala.

3. On completion of investigation, the police has filed the challan, charge has been framed and six witnesses of the prosecution have already been examined. The next date for recording the evidence of the prosecution is fixed on 20 to 22.6.2011. As per the Petitioner the incident has not taken place in the manner as alleged by the prosecution. The deceased Prem Dass was real brother of Petitioner who died of hypovolumic shock and respiratory failure due to lung puncture and liver injury leading to direct trauma as per postmortem of deceased

Prem Dass. It has been submitted that the present bail application has been filed on changed circumstances.

4. The application has been opposed by the learned Assistant Advocate General and has submitted that there is no change of circumstance after the rejection of bail applications of the Petitioner by the Courts below. The prosecution evidence is being recorded in the trial, statements of six witnesses have already been recorded and remaining prosecution evidence is likely to be over as early as possible. There is no delay in the trial.

5. I have heard the learned Counsel for the parties and have also gone through the record. Three bail applications of the Petitioner have already been rejected by the courts below. It has been submitted that the death of the deceased is not attributable to Petitioner, but due to reasons alleged in postmortem report. It is not a case of natural death, the deceased died of some injuries, whether Petitioner is responsible for causing the death of the deceased will be considered during trial. The deceased was the real brother of the Petitioner, who is facing trial in a heinous offence. A part of the trial is over and remaining part of the trial is likely to be over within reasonable time. The next date of hearing in the trial is already fixed on 20 to 22.6.2011. No change of circumstance has been pointed out. The Petitioner has failed to make out any case for releasing him on bail. Accordingly the petition is dismissed