

(2015) 06 SHI CK 0098

In the High Court Of Himachal Pradesh

Case No : Criminal M.P.(M) No. 392 of 2014

Lalit Kumar Vaidya

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 30-06-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 150, 167(2), 439(1), 439(2)

Citation : (2015) 2 ShimLC 1111

Hon'ble Judges : Rajiv Sharma, J.

Bench : Single Bench

Advocate : Ambika Kotwal, Advocate, for the Appellant; Parmod Thakur, M.A. Khan, Additional Advocate Generals, Neeraj K. Sharma, Deputy Advocate General and Ramesh Thakur, Assistant Advocate General, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—The non-applicant was granted bail in Cr. M.P. (M) No. 175 of 2014 vide order dated 18.2.2014 on the following conditions:

"(a) He shall make himself available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application.

(b) He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

(c) He shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police officer; and

(d) He shall not leave the territory of India without the prior permission of the Court."

The applicant has filed the present application for cancellation of the bail granted

to the non-applicant on 18.2.2014. According to the averments made in the reply to the present application, non-applicant has pleaded that he has not violated any of the terms and conditions of the bail order dated 18.2.2014. The Superintendents of Police, Shimla and Mandi were directed to conduct inquiry and submit the report to the Court whether the accused has violated terms and conditions of bail order dated 18.2.2014. The Superintendent of Police, Mandi in his report has specifically stated that non-applicant has not violated any of the terms and conditions imposed against him. The Superintendent of Police, Shimla has stated that Kalandra has been prepared under Section 107 and 150 of the Code of Criminal Procedure. It was submitted to the Sub Divisional Magistrate (Urban), Shimla on 16.4.2014. The Sub Divisional Magistrate has returned the same with the observation to submit the same before the Court of concerned Sub Divisional Magistrate in Mandi District as both the parties permanently reside in Mandi. However, S.H.O., Police Station, Sadar Shimla has requested the Court of Sub Divisional Magistrate (Urban) Shimla vide letter dated 7.7.2014 to try the same. The principles of grant of bail and cancellation of bail are different.

2. Their Lordships of the Hon''ble Supreme Court in Abdul Basit Vs. Abdul Kadir Choudhary, have spelt out the following grounds for cancellation of bail:

"[14] Under Chapter XXXIII, Section 439(1) empowers the High Court as well as the Court of Session to direct any accused person to be released on bail. Section 439(2) empowers the High Court to direct any person who has been released on bail under Chapter XXXIII of the Code be arrested and committed to custody, i.e., the power to cancel the bail granted to an accused person. Generally the grounds for cancellation of bail, broadly, are, (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. These grounds are illustrative and not exhaustive. Where bail has been granted under the proviso to Section 167(2) for the default of the prosecution in not completing the investigation in sixty days after the defect is cured by the filing of a charge sheet, the prosecution may seek to have the bail cancelled on the ground that there are reasonable grounds to believe that the accused has committed a non-bailable offence and that it is necessary to arrest him and commit him to custody. However, in the last mentioned case, one would expect very strong grounds indeed. Raghubir Singh and Others Vs. State of Bihar, .

3. In the case in hand, the applicant has not made out any case that the non-applicant has violated the terms and conditions imposed upon him while granting bail on 18.2.2014. Accordingly, there is no merit in the present application and the same is dismissed. No costs.