

(2021) 07 SHI CK 0098

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 1161, 1162 Of 2021

Manoj Kumar And Others

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 09-07-2021

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 420
Code Of Criminal Procedure, 1973 — Section 41A

Citation : (2021) 07 SHI CK 0098

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Karan Singh Parmar, Anil Jaswal

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. Both these petitions arise out of FIR No.29/2019, dated 24.10.2019, registered under Sections 420 and 120-B of the Indian Penal Code at Police

Station Tapri, District Kinnaur. The petitioners herein are seeking anticipatory bail in the above-numbered FIR.

2. Heard learned counsel for the parties and gone through the status report.

3. The case of the prosecution against the petitioners as it comes out from the status report is that:-

3(i). The FIR was registered on the basis of a complaint lodged by one Sh. Vidya Kumar on 08.10.2019. The gist of the allegations was that under

allurement of Rs.45 Lakhs, promised to him in lieu of installation of a mobile tower on his land, the complainant had deposited Rs.4,54,400/- on

different dates in a bank account belonging to one Suman Pandey. Later on, realizing that he was actually duped by the petitioners and other co-

accused, he lodged the complaint on 08.10.2019.

3(ii). During investigations, it was found that two mobile numbers used for calling the complainant were active in Dehradun and were used by a girl

named Sheetal. On being questioned, the said girl stated that she had worked with co-accused Rinku Kumar at Hi-Tech Tower Group. Investigations

were also carried out from said Sh. Rinku Kumar, who disclosed that he had a Degree in B.Com, but was unemployed. Out of desperation, he joined

hands with his friends co-accused Yogendra Singh (bail petitioner in Cr.MP(M) No.1162 of 2021) and Manoj Kumar (bail petitioner in Cr.MP(M)

No.1161 of 2021). This trio set up their office at Dehradun and starting duping people by representing themselves as officials of mobile companies and

in that capacity, used to call various individuals. Later on, the trio also associated their friends Priyanka and Rupa in the fraudulent business carried out

by them. By alluring people that against payment of hefty money, mobile tower will be set up on their land, they used to dupe individuals by asking

them to first deposit money in a given bank account. Using this modus-operandi, they had duped the complainant. Investigating Agency also found that

account in which the complainant had deposited the amount, was opened on a fake address.

3(iii). As per the status report, co-accused-Rinku Kumar and Priyanka were arrested on 29.03.2021. Another co-accused Rupa was bound down

under Section 41-A of the Code of Criminal Procedure (Cr.PC) for ensuring her presence in the investigation/inquiry/trial.

4. Learned counsel for the petitioners submitted that subsequent to the ad-interim bail granted in their favour on 25.06.2021, the petitioners have joined

the investigation and are co-operating with the Investigating Agency. Learned counsel further submitted that co-accused Rinku Kumar and Priyanka,

who were arrested in the case on 29.03.2021, have been enlarged on bail by the learned Chief Judicial Magistrate, Kinnaur at Reckong Peo, on 7.

05.2021. Co-accused Rupa has been bound down under Section 41-A Cr.PC. He further highlighted that as per the status report, during investigations,

it has come out that the co-accused Rinku Kumar had purchased a Baleno vehicle from the money obtained by duping the complainant Vidya Kumar.

Learned counsel prayed for confirmation of the ad-interim bail granted to the petitioners and submitted that the petitioners will not influence the

prosecution witnesses or tamper the prosecution evidence and will abide by all the terms and conditions, which may be imposed upon him by this Court.

Learned Additional Advocate General while opposing the bail, submitted that in case this Court is inclined to grant bail to the petitioners, then the same be made subject to stringent conditions including the one that the petitioners shall continue to join the investigations as and when directed by the Investigating Agency.

5. The petitioners have been accused of offences under Section 420 and 120-B IPC. The provisions entail maximum punishment of seven years. The gist of allegations against the petitioners in the instant FIR is that they alongwith other co-accused persons have duped the complainant of an amount of Rs.4,54,400/-. Co-accused Rinku Kumar and Priyanka have already been enlarged on bail by the learned Trial Court on 07.05.2021. Another co-accused Rupa has been bound down under Section 41-A Cr.PC. Both the petitioners have joined the investigations and are co-operating with the Investigating Agency. The Baleno car allegedly purchased by the co-accused Rinku Kumar out of the money obtained from the fraud committed on complainant Vidya Kumar, has been impounded by the Investigating Agency. No criminal history of the petitioners has been indicated in the status report. The FIR pertains to the year 2019. Therefore, considering all the above aspects and looking into the nature of offences alleged against the petitioners, the present petitions are allowed. Interim protection granted to the petitioners vide order dated 25.06.2021 is made absolute, subject to following conditions: -

- (i) . The petitioners shall continue to join and cooperate in the investigation of the case as and when called for by the Investigating Officer in accordance with law.
- (ii). The petitioners shall not tamper with the evidence or hamper the investigation in any manner whatsoever.
- (iii). The petitioners will not leave India without prior permission of the Court.
- (iv). The petitioners shall not make any inducement, threat or promise, directly or indirectly, to the Investigating Officer or any person acquainted with the facts of the case to dissuade him/her from disclosing such facts to the Court or any Police Officer.

(v). In case the petitioners are put to trial, then they shall attend the trial on every hearing, unless exempted in accordance with law.

(vi). Petitioners shall inform the Station House Officer of the concerned police station about their place of residence during bail and trial. Any change

in the same shall also be communicated within two weeks thereafter. Petitioners shall furnish details of their Aadhar Cards, Mobile Numbers, E- mail,

PAN Cards, Bank Account Numbers, if any.

It is made clear that in case of violation of any of the terms & conditions of the bail, respondent-State shall be at liberty to move appropriate

application for cancellation of the bail. It is also clarified that observations made above are only for the purpose of adjudication of instant bail petitions

and shall not be construed as an opinion on the merits of the matter. Learned Trial Court shall decide the matter without being influenced by any of the

observations made hereinabove.

With the aforesaid observations, the present petitions stand disposed of, so also the pending miscellaneous applications, if any.

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