

(2016) 07 SHI CK 0123
In the High Court Of Himachal Pradesh
Case No : Cr. MP (M) No. 733 of 2016

Mohammad Yasin @ Sonu

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 13-07-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 323, Section 34, Section 376, Section 506

Citation : (2016) 4 HimLR 1977

Hon'ble Judges : Mr. Chander Bhusan Barowalia, J.

Bench : Single Bench

Advocate : Mr. Virender Kumar Verma, Addl. Advocate General with Mr. Pushpinder Singh Jaswal, Dy. Advocate General ASI Joginder Singh, Police Station, Tissa, District Chamba, present in person, for the Respondent; Mr. N.K. Thakur, Sr. Advocate with Ms. Jamuna Thakur

Final Decision : Disposed Off

Judgement

Chander Bhusan Barowalia, J. (Oral) - The present bail application is maintained by the petitioners under Section 438 of the Code of Criminal Procedure for releasing them on bail in case FIR No.58 of 2016 dated 18.6.2016, under Sections 376, 506, 323 read with section 34 of the Indian Penal Code, registered at Police Station, Tissa, District Chamba, H.P. As per the prosecution story, the prosecutrix has lodged a report against the petitioners that petitioner No.1 committed sexual intercourse with her on the pretext of marriage knowingly petitioner No.1 is married.

2. Learned counsel for the petitioners has argued that petitioners are joining the investigation and they may be released on bail in the event of their arrest.

3. On the other hand, learned Additional Advocate General argued that the petitioners have committed heinous offence and the manner in which the crime has been committed makes it a fit case where the judicial discretion is not required to be exercised in favour of the petitioners.

4. At this moment, taking into consideration the fact that the petitioners are permanent resident of Tissa, District Chamba, Himachal Pradesh, are not in a position to flee from justice. The petitioners are co-operating and joining the investigation. The interest of justice demands that judicial discretion to admit the petitioners on bail is required to be exercised in favour of the petitioners. So, it is ordered that in the event of arrest in this case, the petitioners be released on bail, on their furnishing personal bond to the sum of Rs. 25,000/- (rupees twenty five thousand only) each with one surety each in the like amount to the satisfaction of Investigating Officer. The bail is granted subject to the following conditions :

- i. That the petitioners will join investigation of case as and when called for by the Investigating Officer in accordance with law.
- ii. That the petitioners will not leave India without prior permission of the Court.
- iii. That the petitioners will not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Investigating Officer or Court.

5. In case, it comes in the notice of the prosecution that the petitioners are in any manner hampering the investigation and tampering with the prosecution evidence, the prosecution is at liberty to approach the Court for cancellation of the bail.

6. The petition is accordingly allowed and stands disposed of.