

(2015) 05 SHI CK 0093

In the High Court Of Himachal Pradesh

Case No : Criminal M.P.(M) Nos. 395, 396, 397, 398, 399, 400, 401, 402 and 403 of 2015

Nikhil and Others

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 18-05-2015

Acts Referred:

Constitution of India, 1950 — Article 21
Criminal Procedure Code, 1973 (CrPC) — Section 154, 161, 439
Evidence Act, 1872 — Section 27
Penal Code, 1860 (IPC) — Section 147, 148, 149, 202, 302

Citation : (2015) 05 SHI CK 0093

Hon'ble Judges : Tarlok Singh Chauhan, J

Bench : Single Bench

Advocate : Ajay Kochar and Vivek Sharma, for the Appellant; V.K. Verma, Meenakshi Sharma, Rupinder Singh, Additional Advocate Generals, Munish Dhadwal, HPS, Dy. S.P./SDPO and Gulam Akbar, SI/SHO, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Tarlok Singh Chauhan, J.—The above mentioned nine bail petitions have been filed for grant of regular bail in case FIR No. 14 of 2015, dated 11.3.2015 registered under Sections 147, 148, 149, 302, 323, 354, 364, 436, 452 and 506 IPC at Police Station, Chopal, District Shimla, H.P.

2. In the application(s), it has been pleaded that on 11.3.2015 a marriage ceremony of Manoj Mehta was being solemnized at Village Tuil, Post Office Chambi, Tehsil Chopal, District Shimla, H.P. A few guests had started returning to their respective places after having food. While crossing a village path above the house of one Narvir an altercation took place between the said Narvir and one Bharat Bhushan. Narvir was holding a double barrel gun in his hand and he without any provocation fired at Bharat Bhushan. Bharat Bhushan received gun shot on his stomach and he immediately fell on the field. Narvir threw his gun on

the spot and ran downwards. Bharat Bhushan was immediately lifted by the people present on the spot, but he succumbed to the injuries and died. The matter was reported to the police and the police registered a case vide FIR No. 13/2015.

3. When the police reached on the spot with a purpose to investigate the case registered vide FIR No. 13 of 2015, Smt. Virendra Devi, wife of Narvir got recorded a false statement to the police with the purpose to save her husband. She alleged that her husband was assaulted with lethal weapons by a mob.

4. On the basis of the statement of Smt. Virendra Devi, the police has registered a case vide FIR No. 14 of 2015 under Sections 147, 148, 149, 302, 323, 354, 364, 436, 452 and 506 of the Indian Penal Code against 35 persons, who have been falsely named by the aforesaid complainant.

5. It is the case of the bail petitioners that they had been falsely implicated and many of them being innocent have themselves surrendered before the police, who are now in judicial custody. It is claimed that the petitioners have been falsely implicated in the case, which was a counter blast to the FIR No. 13 of 2014 registered with the sole purpose of saving her husband and herself from the clutches of law.

6. The respondent after having put to notice, have produced the records of the investigation and have also filed the status report.

7. The record discloses that on 11.3.2015, complainant got recorded her statement under Section 154 Cr.P.C. to ASI Partap Singh disclosing therein that she along with her husband and three children is residing in village Tuil. As about 3.00 P.M., on 11.3.2015, she along with her husband was present in her house. Meanwhile, a stone was thrown on the head of her husband, upon which, the husband told her that people are pelting stones upon them, upon which the complainant along with children got into the house. Her husband also came inside the house. The people were pelting stones on the roof of the house. They also proclaimed that if Narvir would come out, they will not spare him. Then, the accused Bantu son of Sunder Singh, Dalip son of Jalam Singh, Bhupinder son of Sh. Roop Singh, Pappu, Kaku son of Joban Dass, Rakesh son of Lachhi Ram, Sunil son of Sant Ram, Manu son of Beer Singh, Gulshan son of Lachhi Ram, Ritu son of Joban Dass, Joban Dass, Sanu son of Bhupinder, Rajinder son of Balak Ram, Dinesh Mehta son of Masat Ram, Manu alias Sachin son of Rajinder entered in the house. After entering the house, Bhupinder son of Sh. Bhoop Singh caught hold the complainant from her hair, Rinku and Kaku caught hold the complainant from her arms. Rajinder, Sunil and Pappu tore the clothes of the complainant and they have also proclaimed to molest her. Ritu was having stone in his hand and he inflicted injuries on the face of the complainant. Those persons were proclaiming to the deceased Narvir that he could save his wife if he can. The husband of the complainant was having a gun in his hand. He tried to save the complainant, then the persons who came there inflicted Darat blow on the head

of her husband. They also snatched the gun. In that process, the bullet got fired and hit Bantu son of Sh. Sunder Singh. Thereafter, all those persons dragged the husband of the complainant out of the house along with the person who sustained the bullet injuries. Apart from the above persons, women were also present there. All of them have beaten the husband of the complainant. One Surinder Nepali had inflicted the axe blow on the husband of the complainant. They dragged the husband of the complainant towards the fields. She also got recorded the names of the accused Rama Nand son of Mahi Ram, Bantu son of Rama Nand, Yashu son of Ram Lal, Yashu son of Gian Singh, Man Singh son of Kumbia, Prince Mohan son of Man Singh, Dimple son of Man Singh, Dimple son of Ishri Nand, Virender son of Sh. Roshan Lal, Devinder son of Roshan Lal, Inder Singh son of Sh. Roshan Lal, Pankaj son of Daulat Ram, Sanjay son of Daulat Ram, Ravi son of Mangat Ram, Vishal son of Sandeep, Sandeep son of Sh. Sohan Singh, Nikhil son of Sh. Sandeep, Pinku son of Bhindru, Kundan Singh son of Jalam Singh, Vir Singh son of Sh. Mehar Singh, Sunder Singh son of Sh. Mehar Singh. She further recorded that when her husband was dragged by the above persons, then after sometime, the accused Daleep, Pradeep, Bhupinder, Surinder Nepali, Sunil, Manoj, Rajinder came to the house of the complainant and told her that they had killed her husband and thrown his dead body in the rivulet. They have also proclaimed that they will burn the complainant as well as her children. They also sprinkled kerosene oil on the grass and wood lying on the rear side of the house and set the same on fire. On all these allegations the complainant prayed that action be taken against them.

8. On the said statement of the complainant, the police machinery swung into motion and registered F.I.R. No. 14/2015 under Sections 302, 147, 148, 149, 452, 364, 436, 354, 323 and 506 of the Indian Penal Code.

9. The police searched for Narvir Thakur on 11/12.3.2015, but he was not found. On 12.3.2015, the spot was videographed. The other codal formalities were completed on the spot. On 12.3.2015, the dead body of Narvir was found in the jungle. The dead body was taken into possession and the same was sent for postmortem examination. On 16.3.2015, the bail applicants have surrendered before the police. They were arrested and were medico legally examined. During the course of investigation on 19.3.2015, the accused Kundan Singh and Dalip Singh made a statement under Section 27 of the Indian Evidence Act and Kundan Singh got recovered the Axe and Dalip Singh got recovered the clothes which he had worn at the time of incident.

I have heard the learned counsel for the parties and have also gone through the records of the case.

10. It is well settled that the matters to be considered in an application for bail are:-

(i) whether there is any prima facie or reasonable ground to believe that the accused has committed the offence;

- (ii) nature and gravity of the charge;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behavior, means position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being tampered with; and
- (viii) danger, of course, of justice being thwarted by grant of bail.

11. It is also more than settled that if a person was suspected of a crime of an offence punishable with death or imprisonment for life, then there must be explaining grounds which specifically negate the existence of reasonable grounds for believing that such an accused is guilty of an offence punishable with sentence of death or imprisonment for life. The jurisdiction to grant bail must, therefore, be exercised on the basis of well settled principles having regard to the circumstances of each case. The discretion to be exercised in such matters must be exercised in a judicious manner and not as a matter of course. It may not be necessary to do detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, but there is a need to indicate reasons for prima facie concluding why bail was being granted, particularly where the accused is charged of having committed a serious offence. The heinous nature of the crime warrants more caution and there is a greater chance of rejection of bail, though, however dependent on the factual matrix of the matter.

12. In *Ash Mohammad Vs. Shiv Raj Singh @ Lalla Babu and Another*, (2012) CriLJ 4670 : (2012) 4 JCC 2909 : (2012) 9 JT 155 : (2013) 1 RCR(Criminal) 277 : (2012) 9 SCALE 165 : (2012) 9 SCC 446 , the legal position was summed up in the following manner:-

"7. The centripetal issue that emerges for consideration is: whether the order passed by the High Court is legitimately acceptable and legally sustainable within the ambit and sweep of the principles laid down by this Court for grant of regular bail under Section 439 of the Code?

8. In *Ram Govind Upadhyay Vs. Sudarshan Singh and Others*, AIR 2002 SC 1475 : (2002) CriLJ 1849 : (2002) 2 Crimes 15 : (2002) 3 JT 185 : (2002) 3 SCALE 12 : (2002) 3 SCC 598 : (2002) 2 SCR 526 : (2002) AIRSCW 1342 : (2002) 2 Supreme 457 , it has been opined that the grant of bail though involves exercise of discretionary power of the Court, such exercise of discretion has to be made in a judicious manner and not as a matter of course. The heinous nature of the crime warrants more caution and there is greater chance of rejection of bail, though, however dependent on the factual matrix of the matter. IN the said case the learned Judges referred to the decision in *Prahlad Singh Bhati Vs. N.C.T. Delhi and Another*, AIR 2001 SC 1444 : (2001) CriLJ 1730 : (2001) 2 Crimes 87 :

(2001) 1 DMC 669 : (2001) 4 JT 116 : (2001) 2 SCALE 572 : (2001) 4 SCC 280 : (2001) 2 SCR 684 : (2001) AIRSCW 1263 : (2001) 2 Supreme 550 and stated as follows: (Ram Govind Upadhyay Vs. Sudarshan Singh and Others, AIR 2002 SC 1475 : (2002) CriLJ 1849 : (2002) 2 Crimes 15 : (2002) 3 JT 185 : (2002) 3 SCALE 12 : (2002) 3 SCC 598 : (2002) 2 SCR 526 : (2002) AIRSCW 1342 : (2002) 2 Supreme 457

"(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a *prima facie* satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

9. In Chaman Lal Vs. State of U.P. and Another, AIR 2004 SC 4267 : (2004) CriLJ 4243 : (2004) 6 JT 540 : (2004) 7 SCALE 13 : (2004) 7 SCC 525 : (2004) 3 SCR 584 Supp : (2004) AIRSCW 4705 : (2004) 6 Supreme 186 this court while dealing with an application for bail has stated that certain factors are to be considered for grant of bail, they are: (SCC p. 525)

"...(i) the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant, and

(iii) *prima facie* satisfaction of the court in support of the charge."

10. In Masroor Vs. State of U.P. and Another, (2009) 8 JT 398 : (2009) 6 SCALE 358 : (2009) 14 SCC 286 : (2009) 6 SCR 1030 : (2009) 4 UJ 1871 , while giving emphasis to ascribing reasons for granting of bail, however, brief it may be, a two-Judge Bench observed that: (SCC p. 290, para 15)

"15. There is no denying the fact that the liberty of an individual is precious and is to be zealously protected by the courts. Nonetheless, such a protection cannot be absolute in every situation. The valuable right of liberty of an individual and the interest of the society in general has to be balanced. Liberty of a person accused of an offence would depend upon the exigencies of the case."

Bearing in mind the well settled principles of law, I proceed to deal with the merits of the bail applications.

13. Learned counsel for the petitioners has strenuously argued that the present complaint was a counter blast to FIR No. 13 of 2015, which was registered prior in point of time against the deceased husband of the complainant. He further contended that as per the contents of FIR the names of the persons who have entered the house of the complainant are:

- (1) Bantu S/o. Sunder Singh (Deceased in FIR No. 13/15)
- (2) Dalip S/o. Jalam Singh (bail applicant)
- (3) Bhupinder S/o. Roop Singh
- (4) Pappu S/o. Joban Dass
- (5) Kaku S/o. Joban Dass (Sandeep) bail applicant.
- (6) Rakesh S/o. Lachhi Ram
- (7) Sunil S/o. Sant Ram (bail applicant)
- (8) Mannu S/o. Vir Singh
- (9) Gulshan S/o. Lachhi Ram
- (10) Ritoo S/o. Joban Dass (bail applicant)
- (11) Joban Dass, S/o. Bhupinder (12) Rajinder S/o. Balak Ram
- (13) Dinesh Mehta S/o. Mast Ram
- (14) Mannu @ Sachin S/o. Rajinder
- (15) Sonu S/o. Bhupinder

While the persons who are alleged to be present outside the house are:

- (1) Rama Nand S/o. Mohi Ram (father of person at Sr. No. 2)
- (2) Bantoo S/o. Rama Nand
- (3) Yashu S/o. Rama Nand
- (4) Yashu S/o. Gian Singh
- (5) Maan Singh S/o. Kumb Dass (bail applicant)
- (6) Prince S/o. Maan Singh (bail applicant)
- (7) Dimple S/o. Maan Singh
- (8) Dimple S/o. Ishwari Nand
- (9) Varinder S/o. Roshan Lal
- (10) Devinder S/o. Roshan Lal (bail applicant)
- (11) Inder S/o. Roshan Lal

- (12) Pankaj S/o. Daulat Ram
- (13) Sanjay S/o. Daulat Ram
- (14) Ravi S/o. Mangat Ram
- (15) Sandeep S/o. Sohan Singh
- (16) Vishal S/o. Sandeep (bail applicant)
- (17) Nikhil S/o. Sandeep (bail applicant)
- (18) Pinku S/o. Bhupinder
- (19) Kundan S/o. Jhalam Singh
- (20) Dalip S/o. Jalam Singh
- (21) Lachi Ram S/o. Jhalam Singh
- (22) Veer Singh S/o. Mehar Singh
- (23) Sunder Singh S/o. Mehar Singh
- (24) Along with all the ladies of the village.

Whereas there is yet a third set of persons, who proclaimed to have killed the husband of the complainant, who are:

- (1) Dalip
- (2) Pradeep
- (3) Bhupinder
- (4) Surinder (Gorkha)
- (5) Sunil
- (6) Manoj
- (7) Rajinder

Therefore, each of the accused cannot be made to stand on equal pedestal, as the seriousness of the allegations against one of the accused cannot be taken as a ground to deny bail to all accused against whom allegations may not so serious. It is also contended that one of the accused Mannu @ Sachin S/o. Rajinder was not at the scene of the incident on the relevant date and time and was in fact in Shimla, which fact is duly proved from the withdrawal made by him from the ATM. It is also contended that some of the accused have been stated to be present at the spot when admittedly they were accompanying Bantu S/o. Sunder Singh (deceased) in FIR No. 13 of 2015 and their names find mentioned in the receipt obtained at the time of handing over of the body. He further argued that the petitioners being innocent had of their own surrendered to the police, which proved their innocence.

14. Before proceeding any further, it would be relevant to note that the learned Sessions Judge has rejected the bail applications of the petitioners on the following grounds:-

(i) Mere fact that the bail applicants are in judicial custody does not mean that the investigation qua them is complete. The investigation was at a crucial juncture where number of accused were yet to be arrested.

(ii) The FIR at the instance of the complainant could not be held to be a counter blast to the accused registered against her deceased husband vide FIR No. 13 of 2015.

(iii) The release of the bail applicants would send wrong signal to the society that after commission of such heinous offence, the applicants are moving freely in the society.

(iv) Since it was a heinous offence, the Court has to maintain a delicate balance between the individual liberty and the larger interest of the society.

(v) In teeth of specific allegation of constitution of unlawful assembly, the petitioner could not be treated to be innocent.

15. The grounds now canvassed before me are virtually the same which had been canvassed before the Learned Sessions Judge. It is not that the accused do not have a right to make successive bail applications, but then the Court entertaining such subsequent applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such case, the Court also has a duty to record what are the sufficient grounds which persuade it to take a different view from the one taken in the earlier application. This was so held by the Hon"ble Supreme Court in Ram Govind Upadhyay Vs. Sudarshan Singh and Others, AIR 2002 SC 1475 : (2002) CriLJ 1849 : (2002) 2 Crimes 15 : (2002) 3 JT 185 : (2002) 3 SCALE 12 : (2002) 3 SCC 598 : (2002) 2 SCR 526 : (2002) AIRSCW 1342 : (2002) 2 Supreme 457 :-

"9. Undoubtedly, considerations applicable to the grant of bail and considerations for cancellation of such an order of bail are independent and do not overlap each other, but in the event of non- consideration of considerations relevant for the purpose of grant of bail and in the event an earlier order of rejection available on the records, it is a duty incumbent on to the High Court to explicitly state the reasons as to why the sudden departure in the order of grant as against the rejection just about a month ago. The subsequent FIR is on record and incorporated therein are the charges under Sections 323 and 504 IPC in which the charge-sheet have already been issued ---- the Court ought to take note of the facts on record rather than ignoring it. In any event, the discretion to be used shall always have to be strictly in accordance with law and not dehors the same. The High Court thought it fit not to record any reason, far less any cogent reason, as to why there should be a departure when in fact such a petition was dismissed earlier not very long ago. The consideration of the period of one year

spent in jail cannot in our view be a relevant consideration in the matter of grant of bail, more so by reason of the fact that the offence charged is that of murder under Section 302 IPC having the punishment of death or life imprisonment --- it is a heinous crime against the society and as such the court ought to be rather circumspect and cautious in its approach in a matter which stands out to be a social crime of very serious nature."

16. Learned counsel for the petitioners has vehemently argued that it was not the police who arrested them, but they of their own volition surrendered, which proved their innocence. Mere fact that the petitioners have surrendered of their own volition, to my mind does not in itself lead to an inference, much less proves their innocence. If such a plea were to be accepted, then in all crimes where the accused surrenders, he would plead innocence only on the sheer strength of his having surrendered, and therefore, this plea cannot be countenanced. The petitioners admittedly have been named as accused in the FIR and definite role has been ascribed to them. This is an exceptional case where allegations have been made against a large number of people, who are claiming themselves to be innocent, but then the investigation is only at the stage of infancy and arming the petitioners with bail at this stage would seriously prejudice and hamper the investigation.

17. It is more than settled that at this stage the examination of the evidence is to be avoided, lest it amounts to prejudging and prejudicing either of the parties. However, a prima facie examination of the record does disclose the commission of offence and the involvement of the petitioners in the commission of the same. In so far as the absence of some of the accused at the time of commission of offence or scene of occurrence is concerned, they admittedly are not the bail petitioners and therefore, no finding on this aspect is being recorded lest it prejudices the case of those accused or the investigating agency.

18. The learned counsel for the petitioners would then contend that the Hon"ble Supreme Court has time and again held that the personal liberty of an individual is a Constitutional guarantee and he cannot be deprived of the same. What has probably been overlooked by the learned counsel is the fact that lawful detention cannot be questioned as being violative of Article 21 of the Constitution, since the same is authorized by law.

19. The question of "liberty" has come up for consideration repeatedly before the Hon"ble Supreme Court and the position has been summed up by the Hon"ble Supreme Court in Ash Mohammad's case (supra), wherein it was held:-

"17. We are absolutely conscious that liberty of a person should not be lightly dealt with, for deprivation of liberty of a person has immense impact on the mind of a person. Incarceration creates a concavity in the personality of an individual. Sometimes it causes a sense of vacuum. Needless to emphasize, the sacrosanctity of liberty is paramount in a civilized society. However, in a democratic body polity which is wedded to Rule of Law an individual is expected

to grow within the social restrictions sanctioned by law. The individual liberty is restricted by larger social interest and its deprivation must have due sanction of law. In an orderly society an individual is expected to live with dignity having respect for law and also giving due respect to others' rights. It is a well accepted principle that the concept of liberty is not in the realm of absolutism but is a restricted one. The cry of the collective for justice, its desire for peace and harmony and its necessity for security cannot be allowed to be trivialized. The life of an individual living in a society governed by Rule of Law has to be regulated and such regulations which are the source in law subserve the social balance and function as a significant instrument for protection of human rights and security of the collective. It is because fundamentally laws are made for their obedience so that every member of the society lives peacefully in a society to achieve his individual as well as social interest. That is why Edmond Burke while discussing about liberty opined, "it is regulated freedom".

18. It is also to be kept in mind that individual liberty cannot be accentuated to such an extent or elevated to such a high pedestal which would bring in anarchy or disorder in the society. The prospect of greater justice requires that law and order should prevail in a civilized milieu. True it is, there can be no arithmetical formula for fixing the parameters in precise exactitude but the adjudication should express not only application of mind but also exercise of jurisdiction on accepted and established norms. Law and order in a society protect the established precepts and see to it that contagious crimes do not become epidemic. In an organized society the concept of liberty basically requires citizens to be responsible and not to disturb the tranquility and safety which every well-meaning person desires. Not for nothing J. Oerter stated:

"Personal liberty is the right to act without interference within the limits of the law."

19. Thus analyzed, it is clear that though liberty is a greatly cherished value in the life of an individual, it is a controlled and restricted one and no element in the society can act in a manner by consequence of which the life or liberty of others is jeopardized, for the rational collective does not countenance an anti-social or anti-collective act.

20. Having said about the sanctity of liberty and the restrictions imposed by law and the necessity of collective security, we may proceed to state as to what is the connotative concept of bail. In Halsbury's Laws of England 4th Edn., Vol. 11, para 166 it has been stated thus: -

"166. Effect of bail.---The effect of granting bail is not to set the defendant [(accused) at liberty], but to release him from the custody of law and to entrust him to the custody of his sureties who are bound to produce him to appear at his trial at a specified time and place. The sureties may seize their principal at any time and may discharge themselves by handing him over to the custody of law and he will then be imprisoned....."

21. In *Sunil Fulchand Shah Vs. Union of India and Others*, AIR 2000 SC 1023 : (2000) CriLJ 1444 : (2000) 1 CTC 694 : (2000) 68 ECC 209 : (2000) 2 JT 230 : (2000) 1 SCALE 660 : (2000) 3 SCC 409 : (2000) 1 SCR 945 : (2000) AIRSCW 582 : (2000) 4 Supreme 682 Dr. A.S. Anand, learned Chief Justice, in his concurring opinion, observed: (SCC pp. 429-30, para 24)

"24.....Bail is well understood in criminal jurisprudence and Chapter 33 of the Code of Criminal Procedure contains elaborate provisions relating to grant of bail. Bail is granted to a person who has been arrested in a non-bailable offence or has been convicted of an offence after trial. The effect of granting bail is to release the accused from internment though the court would still retain constructive control over him through the sureties. In case the accused is released on his own bond such constructive control could still be exercised through the conditions of the bond secured from him. The literal meaning of the word "bail" is surety."

22. As grant of bail as a legal phenomenon arises when a crime is committed it is profitable to refer to certain authorities as to how this Court has understood the concept of crime in the context of society. In *P.S.R. Sadhanantham Vs. Arunachalam and Another*, AIR 1980 SC 856 : (1980) 3 SCC 141 : (1980) SCC(Cri) 649 : (1980) 2 SCR 873 : (1980) 12 UJ 403 , R.S. Pathak, J. (as His Lordship then was), speaking for himself and A.D. Kaushal, J., referred to *Mogul SS Co. Ltd. v. McGregor Gow and Co.* (1989) 23 QBD 598, and the definition given by Blackstone and opined thus: (SCC p. 150, para 24)

"24.A crime, therefore, is an act deemed by law to be harmful to society in general, even though its immediate victim is an individual."

23. In *Mrs. Harpreet Kaur Harvinder Singh Bedi Vs. State of Maharashtra and another*, AIR 1992 SC 979 : (1992) CriLJ 769 : (1992) 1 Crimes 589 : (1992) 1 JT 502 : (1992) 1 SCALE 142 : (1992) 2 SCC 177 : (1992) 1 SCR 234 a two-Judge Bench, though in a different context, has observed: (SCC p. 186, para 24)

"24. Crime is a revolt against the whole society and an attack on the civilization of the day. Order is the basic need of any organized civilized society and any attempt to disturb that order affects the society and the community."

24. In *T.K. Gopal @ Gopi Vs. State of Karnataka*, AIR 2000 SC 1669 : (2000) CriLJ 2286 : (2000) 6 JT 177 : (2000) 4 SCALE 373 : (1999) 5 SCALE 598(1) : (2000) 6 SCC 168 : (2000) AIRSCW 1669 : (2000) 3 Supreme 706

"11....Crime can be defined as an act that subjects the doer to legal punishment. It may also be defined as commission of an act specifically forbidden by law; it may be an offence against morality or social order."

20. To be fair to the learned counsel for the petitioners, he has canvassed that this Bench in *Dwarku Devi Vs. State of Himachal Pradesh*, (2014) 2 ShimLC 882 had granted bail to the petitioners who too were accused of an offence punishable under Sections 302, 376, 202 read with Section 34 IPC and therefore,

the petitioners ought to be released.

21. I have gone through the judgment and find that in that case the shield anchor of the prosecution case was the statement of Kumari Anjana Kashyap recorded under Section 161 Cr.P.C. A perusal whereof revealed that nothing contained therein, even remotely suggested, the complexity or involvement of the petitioners therein. While, this is not the fact situation obtaining in the present case, as the petitioners have been specifically named by the complainant in her statement under Section 154 Cr.P.C.

22. The petitioners are accused of serious and heinous offence and their liberty at this stage cannot be placed at a high pedestal, which would bring in anarchy or disorder in the society. Their release at this stage would be a serious threat to the peace and tranquility and above all would be a threat to the safety of the complainant and her family members. Moreover, their release at this stage may hamper the investigation and they may also coerce the witnesses.

In view of the aforesaid discussion, I find no merit in these petitions and the same are accordingly dismissed.