

(2017) 01 SHI CK 0059

In the High Court Of Himachal Pradesh

Case No : 62 of 2017 along with Cr MP(M) Nos 63 of 2007, 64 of 2017, 65 of 2017 and 66 of 2017

Papu @ Deep Singh, & Ors.

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 27-01-2017

Acts Referred:

Code of Criminal Procedure, 1973, Section 439 - Special powers of High Court or Court of Session regarding bail
Indian Penal Code, 1860, Section 147, Section 307, Section 149, Section 353 - Punishment for rioting - Attempt to murder - Every member of unlawful assembly guilty of offence committed in prosecution of common object - Assault or criminal force to deter public servant from discharge of his duty

Citation : (2017) 01 SHI CK 0059

Hon'ble Judges : Chander Bhusan Barowalia

Bench : Single Bench

Advocate : George, M.L. Chauhan, Ramesh Thakur, Subhash Chander

Final Decision : Disposed

Judgement

1. The present bail applications have been maintained by the petitioners under Section 439 of the Code of Criminal Procedure seeking their release in case FIR No. 158/2016, dated 24.12.2016, under Sections 353, 147, 149 and 307 of the Indian Penal Code, registered at Police Station, Nahan, District Sirmaur, H.P.

2. Since all the aforesaid bail applications are interconnected, inter-linked and arising out of the same FIR, therefore, the same are taken together for hearing and are being disposed of accordingly.

3. As per the learned counsel for the petitioners, the petitioners are innocent and have been falsely implicated in the present case as they were not the part of the mob. They are permanent residents of Nahan, District Sirmaur and no purpose will be served by keeping them behind the bars.

4. Police report stands filed. As per the prosecution story, on 23.12.2016, at about 9.00 P.M, when the complainant along with ASI Madan and Constable Gangbir were on official duty to safeguard the house of the accused in another case involving communal and religious tension, all the petitioners along with others formed an unlawful assembly outside the house and the petitioner Sethi Singh threw a burning wooden log on the foot of ASI, whereas the petitioner Papu threw petrol/explosive substance over the person of ASI, as a result of which, ASI received burn injuries. Had the police be not there, the petitioners would have set the house of the accused in another case on fire. The petitioners were arrested and after police remand, they were sent to judicial custody on 28.12.2016.

5. As per the prosecution, the petitioners were the main culprits and they had thrown the petrol even on the ASI, who received burn injuries. However, as per the petitioners, they are not at all involved in this case. Learned counsel for the petitioners has argued that the petitioners are behind the bars from the last more than one month.

6. I have gone through the rival contentions of the parties and the police report in detail.

7. Taking into consideration the overall aspects of this case and the fact that the petitioners are the local residents of Nahan, District Sirmaur and are not in a position to flee from justice in case they are released on bail; and without discussing the averments, which have come on the police file, this Court finds that the present is a fit case where the judicial discretion to admit the petitioners on bail is required to be exercised in favour of the petitioners, so it is ordered that the petitioners be released forthwith on bail, on their furnishing personal bonds to the tune of Rs.25,000/- (rupees twenty five thousand only) each with one surety each in the like amount to the satisfaction of learned Trial Court, in case FIR No. 158/2016, dated 24.12.2016, under Sections 353, 147, 149 and 307 of the Indian Penal Code, registered at Police Station, Nahan, District Sirmaur, H.P. The bail is granted subject to the following conditions: (i) That the petitioners will join investigation of the case 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.

8. It is made clear that in case the petitioners are found involved in any of such like cases in future, the present bail is liable to be recalled on an application being moved by the police.

9. In view of the above, the petitions are disposed of. Copy dasti.