
(2019) 11 SHI CK 0007

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 1919 Of 2019

Prakash Chand Saklani

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 04-11-2019

Acts Referred:

Indian Penal Code, 1860 — Section 323, 354A, 376, 451, 506
Code Of Criminal Procedure, 1973 — Section 438

Citation : (2019) 11 SHI CK 0007

Hon'ble Judges : Anoop Chitkara, J

Bench : Single Bench

Advocate : Kulbhushan Khajuria, Ashwani K. Sharma, Nand Lal Thakur

Final Decision : Allowed

Judgement

Anoop Chitkara, J

1. The petitioner, who is apprehending his imminent arrest on being arraigned as an accused in FIR number 208/2019 dated 2.10.2019, registered under Section 376, 354A, 451, 323, 506 of the Indian Penal Code, in the file of Police Station, Bhuntar, District Kullu, H.P., disclosing non-bailable offences, has come up before this Court under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail.

2. The status report stands filed. I have heard Mr. Kulbhushan Khajuria, learned counsel, for the petitioner and Mr. Nand Lal Thakur, learned Additional Advocate General, for the respondent/ State. I have seen the status report(s) as well as the police file, to the extent it was necessary for deciding the present petition and the same stands returned to the police official through counsel appearing for the State.

3. The counsel for the petitioner submits that the accused had joined the investigation as and when the Investigating Officer so directed him. Learned Additional Advocate General, states that petitioner had joined the investigation.

FACTS:

4. The gist of the First Information Report and the investigation is as follows:

(a) A complaint for commission of offence punishable under Section 376, 354A, 451, 323, 506 of the Indian Penal Code was registered by the victim, who is residing separately from her husband for last 10 years, against the petitioner.

(b) It is further submitted that the victim has two children, who are living with her. It is alleged that the petitioner is a family friend and victim had very cordial relations with him. But, in between, the petitioner was flirting with her because he knew that she was residing separately from her husband. The victim further alleged that petitioner Prakash Chand remained unwell for lot of time and due to this fact she, being a family friend, helped him. However, he was harassing her sexually. She further alleged that she also blocked his number, but then he started called from other numbers and threatened her to kill her as well as commit suicide. She further alleged that he was also beating her. She states that now she is fed up of all this and she informed the daughter of Prakash Chand. She also alleged that on 2.10.2019 at about 1:30 p.m., he came to the shop and forced her to indulge in coitus with him. On her refusal, he gave beatings to her. Consequently, she made complaint against him.

(c) On the basis of this information, the aforesaid FIR was registered against the present petitioner.

5. REASONING

(a) The petitioner had joined the investigation.

(b) The petitioner is permanent resident of address mentioned in the memo of parties.

(c) I am satisfied that no purpose will be served if the bail petitioner is sent to judicial custody.

(d) I am of the considered view that, prima facie, petitioner has made out a case for grant of bail. His custodial interrogation is not required at all.

(e) The victim is a married lady having two children and was experienced in sexual intercourse. She can be presumed to be aware of her well being and conduct.

6. Resultantly, the present petition is allowed. In the event of arrest of the petitioner, he shall be released on bail, in connection with the FIR mentioned above, on his furnishing personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Arresting Officer, if not already furnished.

6. The interim order dated 21.10.2019 is made absolute, subject to further following conditions. The petitioner undertakes to comply with all directions given in this order and the furnishing of bail bonds by the petitioner is acceptance of all

such conditions:

(i) The petitioner is directed to join the investigation as and when called by the Investigating Officer and the petitioner undertakes to appear before the Investigating Officer as and when directed to do so. However, whenever the investigation takes place within the boundaries of the Police Station or Police Post, then the accused shall not be called before 9:00 a.m. and shall be let off before 5:00 p.m.

(ii) The petitioner shall co-operate in the investigation.

(iii) The petitioner shall not hamper the investigation.

(iv) The petitioner undertakes not to contact the complainant and witnesses to threaten or browbeat them or to use any pressure tactics.

(v) The petitioner shall neither influence nor try to control the Investigating Officer in any manner whatsoever.

(vi) The petitioner undertakes not to 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 from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

(vii) In case, the accused is put to the trial, then he shall appear before the Court which issues the summons or warrants and shall furnish fresh bail bonds to the satisfaction of such Court.

(viii) The petitioner shall either sell or deposit all the fire arms alongwith ammunition and arms licences, if taken, before the concerned authorities within 30 days from today.

7. It is clarified that the present bail order is only with respect to the above mentioned FIR. It shall not be construed to be a blanket order of bail in all other cases, if any, registered against the petitioner.

8. Any observation made herein above shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the matter uninfluenced by any observation made herein above.

Petition stands allowed in the aforesaid terms.