

(2023) 04 SHI CK 0065

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 797 Of 2023

Radhey Shyam

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 10-04-2023

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 147, 148, 149, 201, 302, 307, 323, 341
Arms Act, 1959 — Section 25, 29B, 30

Citation : (2023) 04 SHI CK 0065

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : Vivek Sharma, Manoj Chauhan

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

1. This petition has been filed seeking enlargement of petitioner on interim bail on account of serious ailment of his father, claiming that he has been suffering from last stage of Cancer, in case FIR No. 147 of 2021, dated 24.5.2021, registered in Police Station Nalagarh, Police District Baddi, H.P., under Sections 147, 148, 149, 341, 323, 307, 302, 120B, 201 of the Indian Penal Code (hereinafter referred to As 'IPC') and Sections 25, 29B, and 30 of Arms Act (hereinafter referred to as 'Arms Act').

2. Learned counsel for the petitioner submits that father of petitioner has expired on 7.4.2023 and for attending last rites and rituals, being a son, presence of petitioner shall be necessary and for that purpose he has submitted that petitioner may be enlarged on interim bail at least for one month.

3. It has been further submitted that it iass the petitioner who was residing with his father, whereas his elder son alongwith his wife is residing separately and that being an undertrial prisoner, petitioner is not entitled for any other kind of provisions of law for enlarging him on bail, parole etc. enabling to perform and

attend the last rites and rituals of his father.

4. Learned Additional Advocate General on the basis of telephonic information, has endorsed the fact of death of father of petitioner as submitted by learned counsel for the petitioner, under instructions received by him.

5. Taking into consideration the aforesaid submissions, I am of the considered opinion that petitioner may be enlarged on interim bail at this stage.

6. Accordingly, petitioner is directed to be enlarged on interim bail till 1st May, 2023, on furnishing personal bond in the sum of Rs. 1,00,000/- with one surety in the like amount, to the satisfaction the Trial Court for a period specified hereinabove and also subject to such further conditions as may be deemed fit and proper by the Trial Court, including the conditions enumerated hereinafter, so as to assure presence of the petitioner at the time of trial:-

(i) That the petitioner shall be enlarged on interim bail from the date of furnishing and acceptance of bail bonds till 1.5.2023 with direction to him to surrender before concerned Jail Superintendent, from where he shall be released, at or before 2:00 P.M. on 1.5.2023;

(ii) that the petitioner shall 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 Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses;

(iii) that the petitioner shall not obstruct the smooth progress of the investigation/trial;

(iv) that the petitioner shall not commit the offence similar to the offence to which he is accused or suspected;

(v) that the petitioner shall not misuse his liberty in any manner;

(vi) that the petitioner shall not jump over the bail;

(vii) that he shall keep on informing about the change in address, landline number and/or mobile number, if any, for his availability to Police and/or during interim bail;

(viii) that during bail period he shall not visit any other place except the place of his residence and places where his presence is essential for performing or management/arrangement of last rites and rituals of his father or any other activity related therewith.

(ix) that Jail Superintendent is directed to inform the Trial Court with respect to surrender of the petitioner on 1.5.2023 and in case petitioner fails to surrender, then appropriate action be initiated against him and his surety.

7. It will be open to the prosecution to apply for imposing and/or to the trial

Court to impose any other condition on the petitioner, enlarged on interim bail, as deemed necessary in the facts and circumstances of the case and in the interest of justice and thereupon, it will also be open to the trial Court to impose any other or further condition on the petitioner as it may deem necessary in the interest of justice.

8. In case the petitioner violates any conditions imposed upon him, his interim bail shall be liable to be cancelled. In such eventuality, prosecution may approach the competent Court of law for cancellation of interim bail, in accordance with law.

9. Learned trial Court is directed to comply with the directions issued by the High Court, vide communication No.HHC.VIG./Misc. Instructions/93-IV.7139 dated 18.03.2013.

10. The petitioner is permitted to produce copy of order downloaded from the High Court website and trial Court shall not insist for certified copy of the order, however, if required, passing of order can be verified from the High Court website or otherwise.

The petition stands disposed of in the aforesaid terms.