
(2020) 07 SHI CK 0134

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 769, 773, 775 Of 2020

Raj Kumar And Others

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 17-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 154, 438, 439(2)
Indian Penal Code, 1860 — Section 147, 148, 149, 307, 341, 323, 504, 506

Citation : (2020) 07 SHI CK 0134

Hon'ble Judges : Chander Bhusan Barowalia, J

Bench : Single Bench

Advocate : Lakshay Thakur, S.C. Sharma, P.K. Bhatti, Kamal Kishore

Final Decision : Disposed Of

Judgement

Chander Bhusan Barowalia, J

1. The matters are taken up through video conference.
2. The present bail applications have been maintained by the petitioners under Section 438 of the Code of Criminal Procedure seeking their release, in the event of their arrest, in case FIR No. 204 of 2020, dated 15.05.2020, under Sections 307, 341, 323, 504, 506, 147, 149 and 148 IPC, registered in Police Station Sundernagar, District Mandi, H.P.
3. As per the averments made in the petitions, the petitioners are innocent and have been falsely implicated in the present case. They are residents of the place and neither in a position to tamper with the prosecution evidence nor in a position to flee from justice. No fruitful purpose will be served by sending them behind the bars, so they be released on bail.
4. Police report stands filed. The prosecution story, as it emanates from the records, is that on 15.05.2020 Shri Babu Ram (complainant) made a statement to the police under Section 154 Cr.P.C. As per his statement, on 15.05.2020, at

about 06:30 p.m., when he was cutting a branch of Toot tree, which he has lopped from the said tree two-three days back, as the branch had come inside his house, Raj Kumar (one of the petitioners herein) came to his courtyard and starting abusing him. Thereafter, he was trashed by Raj Kumar with the leg and fist blows and when he raised hue and cry Shri Nikka Ram and his wife Smt. Bhagti Devi tried to rescue him. In the interregnum, Sanjeev Kumar, Roop Lal, Anju Devi, Maya Devi (petitioners herein) and Vishal came to the courtyard of the complainant with stones. All of them pelted stones, so the complainant, Shri Nikka Ram and Smt. Bhagti Devi sustained injuries. When the complainant tried to flee, he was restrained and threatened with dire consequences. Upon the statement, so made by the complainant, police registered a case and investigation ensued. Complainant party was medically examined. Police visited the spot and prepared the spot map. Scientific samples were collected from the spot and relevant recoveries were also effected. One of the injuries sustained by Smt. Bhagti Devi was opined to be dangerous to human life, so Section 307 was added. Eye Surgeon opined that as Smt. Bhagti Devi sustained grievous injury on her left eye, so her left eye is totally damaged. Rest of the injuries, sustained by the complainant party, were opined to be simple in nature. It has come in the police investigation that some branches of a tree had come in the courtyard of the complainant and due to this reason on 15.05.2020 initially an altercation took place between the parties, which turned into a fracas. As per the police, petitioners are not disclosing truth. On 15.06.2020 Smt. Bhagti Devi made a complaint to the police alleging that there is a threat to her from the petitioners. Lastly, it is prayed that the bail applications of the petitioners be dismissed, as the investigation is in initial stage, the petitioners were found involved in a serious crime and there is possibility that in case at this stage, if the petitioners are enlarged on bail, they may flee from justice. The petitioners can also tamper with the prosecution evidence, so their bail applications be dismissed.

5. Learned Counsel appearing on behalf of the complainant, by filing applications in the petitions under Section 439(2) Cr.P.C., is praying for cancellation of interim bail granted to the petitioners by this Court, vide its order dated 03.06.2020. All these applications are also taken up together with the bail petitions for consideration and disposal.

6. I have heard the learned Counsel for the petitioners, learned Additional Advocate General for the State, learned Counsel for the complainant and gone through the records, including the police report, carefully.

7. The learned Counsel for the petitioners has argued that the petitioners have been falsely implicated in the present case. He has further argued that the petitioners are innocent and no case under Section 307 IPC is made out against them. They are residents of the place and neither in a position to tamper with the prosecution evidence nor in a position to flee from justice. He has further argued that no fruitful purpose will be served by sending the petitioners behind the bars, as they are joining and co-operating in the investigation and nothing is

to be recovered from them, so the bail application be allowed. Conversely, the learned Additional Advocate General has argued that the petitioners were found involved in a serious offence, so at this stage, in case they are enlarged on bail, they may tamper with the prosecution evidence and may also flee from justice. He has further argued that one of the petitioners has again threatened victim/injured Smt. Bhagti Devi, so the bail applications of the petitioners be dismissed.

8. Learned Counsel for the complainant, as noticed above, has moved applications under Section 439 (2) Cr.P.C. opposing the interim bail granted to the petitioners. He has argued that there is possibility that in case the petitioners, at this stage, are enlarged on bail, they may again commit similar offence, so there is imminent danger to the lives of the complainant party. He has argued that one of the petitioners has again threatened Smt. Bhagti Devi (injured), so the bail applications may be dismissed.

9. In rebuttal the learned Counsel for the petitioners has argued that the petitioners are permanent residents of the place, so they are neither in a position to flee from justice nor in a position to tamper with the prosecution evidence. The petitioners are joining the investigation and they are co-operating with the police, nothing remains to be recovered at the instance of the petitioners and their custody is not at all required by the police. He has further argued that the petitioners have also sustained injuries, which fact is discernible from the police records, so these injuries are required to be explained, so the petitions may be allowed and the petitioners may be enlarged on bail.

10. At this stage, considering the facts that the petitioners are the residents of the place, they are neither in a position to tamper with the prosecution evidence nor in a position to flee from justice, prima facie it appears that there was melee between the parties and both the parties sustained injuries, nothing is to be recovered from the petitioners, custody of the petitioners is not at all required by the police, petitioners are joining and co-operating in the investigation, they ready and willing to abide by the terms and conditions of bail, in case granted, also considering the overall facts, which have come on record, and without discussing the same at this stage, this Court finds that the present are fit cases where the judicial discretion to admit the petitioners on bail, in the event of their arrest, is required to be exercised in their favour. Accordingly, the petitions are allowed and it is ordered that the petitioners, in the event of their arrest, in case FIR No. 204 of 2020, dated 15.05.2020, under Sections 307, 341, 323, 504, 506, 147, 149 and 148 IPC, registered in Police Station Sundernagar, District Mandi, H.P., shall be released on bail forthwith in this case, subject to their furnishing personal bond in the sum of Rs. 25,000/- (rupees twenty five thousand) each with one surety each in the like amount to the satisfaction of the Investigating Officer. The bail is granted subject to the following conditions:

(i) That the petitioners will appear before the learned Trial Court/Police/authorities as and when required.

(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.

11. In view of the above, petitions, as also miscellaneous applications, are disposed of.

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