

(2022) 01 SHI CK 0052

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 53 Of 2022

Raju Chandel

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 17-01-2022

Acts Referred:

Indian Penal Code, 1860 — Section 34, 306

Code Of Criminal Procedure, 1973 — Section 154, 438

Citation : (2022) 01 SHI CK 0052

Hon'ble Judges : Satyen Vaidya, J

Bench : Single Bench

Advocate : Anirudh Sharma, Pavinder, Sumesh Raj, Narinder Guleria, Kunal Thakur

Final Decision : Disposed Of

Judgement

Satyen Vaidya, J

1. Petitioner is one of the accused in case registered vide FIR No. 155 of 2021, dated 17.09.2021 at Police Station, Joginder Nagar, District Mandi,

H.P. under Sections 306, 34 IPC.

2. Petitioner has approached this Court for grant of pre-arrest bail under Section 438 Cr.P.C. Petitioner has sought bail on the ground that he has

nothing to do with the offence and has been falsely implicated. Petitioner is a married person and is peacefully residing with his wife and children. He

is only bread earner of the family. He has undertaken not to make any inducement, threat or promise to any person acquainted with the facts of the

case and also not to tamper with the prosecution evidence. As per petitioner, he has no criminal history. He is ready and willing to abide by all the

conditions as may be imposed.

3. On notice, respondent has filed status report. As per the case of respondent, on 16.9.2021 a telephonic information was received at Police Post,

Bassi from Naginder Thakur to the effect that his brother Madan Lal had committed suicide by hanging at place Nagdayara. On arrival of

police at the spot, a suicide note was recovered from the pocket of the lower of deceased, which implicated petitioner besides other co-accused

persons. Statement under Section 154 Cr.P.C. of Shreshta Devi wife of deceased was recorded, in which she disclosed that she had found another

piece of paper with same writing in the hand of deceased from the box containing electricity meter. She did not name any specific person to be

involved in the offence. On further investigation, the alleged suicide notes were found to be in handwriting of the deceased. It has been alleged against

petitioner that he owed a sum of Rs. 13,000/- to the deceased and he had been unnecessarily harassing deceased and his family members alongwith

other co-accused. It is further alleged that petitioner used to threaten the deceased as and when deceased claimed his money from petitioner.

Petitioner is stated to have joined investigation on 13.01.2022.

4. I have heard learned counsel for the petitioner and learned Additional Advocate General for the State and also have gone through the records.

5. The case was registered on 16.09.2021. It is not the case of respondent that petitioner had been absconding since registration of the case. The fact

that the respondent did not make any effort to arrest the petitioner till date implies that his custody was not required by the police.

6. The perusal of status report as well as record does not reveal any clinching material which suggest any overt or covert act on part of petitioner

which may have driven the petitioner into circumstances where the suicide was only option. Even the wife of deceased has not disclosed any fact

whereby any instigation or any act or omission necessary for constitution of abetment is made out against the petitioner. Simply because the petitioner

owed a sum of Rs. 13,000/- to the deceased cannot be taken to be a fact for constitution of offence under Section 306 IPC. The allegations of

threatenings being given by petitioner to the deceased are also general in nature.

7. Petitioner has already joined the investigation. It has not been alleged against the petitioner that he is not co-operating with the police in

investigation. It is also not the case of respondent that the custody of petitioner

is required for custodial interrogation. The respondent has not expressed any apprehension about the petitioner having potential to tamper with the prosecution evidence or to influence the prosecution witnesses.

8. Petitioner is permanent resident of village Nagdiara, Post Office Bhararu, Tehsil Joginder Nagar, District Mandi, H.P. No fruitful purpose will be

served by allowing the petitioner to be kept in custody for indefinite period as the trial is going to take some time before completion. There is no

likelihood of petitioner tampering with the prosecution evidence or influencing the prosecution witnesses. The requirement of petitioner for facing the

trial will be met with by the conditions hereinafter imposed.

9. In the peculiar facts and circumstances of the case, the application is allowed and the petitioner is ordered to be released on bail in case FIR No.

155 of 2021, dated 17.09.2021 registered at Police Station, Joginder Nagar, District Mandi, under Sections 306, 34 IPC, on his furnishing personal bond

in the sum of Rs. 20,000/- with one surety in the like amount to the satisfaction of learned Judicial Magistrate First Class, Joginder Nagar or any

Judicial Magistrate stationed at Mandi, H.P. This order is subject to following conditions: -

i) he shall make himself available for the purpose of investigation, if so required and regularly attend the trial Court on each and every date of hearing

and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;

(ii) he shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

(iii) he shall not 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 Court or the Police Officer; and

(iv) he shall not leave India without prior permission of the Court.

10. Any observation made hereinabove 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 hereinabove.

Petition stands disposed of.