
(2021) 08 SHI CK 0163

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No.1532 Of 2021

Raju Verma

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 16-08-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 307, 341, 427, 506(II)
Arms Act, 1959 — Section 25

Citation : (2021) 08 SHI CK 0163

Hon'ble Judges : Satyen Vaidya, J

Bench : Single Bench

Advocate : Dalip K. Sharma, Dalip K. Sharma, Rajinder Dogra

Final Decision : Disposed Of

Judgement

Satyen Vaidya, J

1. By way of instant petition, petitioner is seeking bail under Section 439 of the Code of Criminal Procedure (hereinafter referred to as the

â??Codeâ?) in case FIR No. 129/2021, dated 1.8.2021, registered at Police Station Dhalli, District Shimla, H.P., under Sections 341, 427, 506 (II), 307

of IPC and Section 25 of the Arms Act.

2. Case of the petitioner is as under: -

(i) He is innocent and has not committed any offence. He has been falsely implicated in the offences alleged against him at the instance of influential

persons due to personal enmity. He is a Government servant and is presently working in Irrigation and Public Health (IPH), Kusumti. Petitioner has

also submitted that he will not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and

shall abide by all such conditions as may be imposed upon him in case of grant of bail.

3. On notice, respondent has filed the status report. As per the case of respondent, on 01.08.2021, one Rajender Chauhan (Complainant) telephonically informed the police station, Dhalli that some person at Chorath Road, was ready to fight with him. Subsequently, on arrival of police at the spot one Jitender son of Bali Ram submitted a written application to the police alleging therein that he was President of Kasumpti Unit of BJP. He was on his way back from Village Patgehar, where he had gone to attend a Tree Plantation Programme, the petitioner wrongfully stopped him and attempted fire from his gun. When the gun did not fire, he attacked the vehicle of the complainant with gun. His associates saved him by getting hold of the petitioner and he was de-armed. Thereafter, petitioner launched attack with stones and also issued threats of life.

4. Petitioner was arrested on 02.08.2021. He remained in police custody till 13.08.2021, on which date he has been ordered to be remanded to Judicial Custody.

5. I have heard learned counsel for the petitioner and learned Additional Advocate General for the State and have also gone through the status report.

6. The status report reveals that gun allegedly held by the petitioner did not in fact fire. There is no specific allegation that petitioner intended to fire at the complainant or any of his associates. In any case, no injury was suffered by any person. There is no medical evidence collected by respondent.

7. Petitioner has no criminal history and he is a Government Servant. Nothing has been brought on record to show that the release of petitioner from custody will be harmful to the society as a whole. Petitioner has already remained in police custody from 02.08.2021 to 13. 08.2021. No fruitful purpose shall be served by keeping the petitioner in judicial custody for indefinite period.

8. The petitioner is a local resident of Village Shkali, Post Office Dhalli, Shimla and has his root in societies. There is no real apprehension of petitioner fleeing from the course of Justice. The ends of Justice can be served by putting conditions on petitioner while granting him the bail. Pre-trial incarceration in this case is not warranted.

9. In the peculiar facts and circumstances of the case, petition is allowed. The

petitioner is ordered to be released on bail in case FIR No. 129/2021, dated 1.8.2021, registered at Police Station Dhalli, District Shimla, H.P., under Sections 341, 427, 506 (II), 307 of IPC and Section 25 of the Arms Act on his furnishing personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of Learned Chief Judicial Magistrate or any other Judicial Magistrate, First Class at Shimla. The petitioner is being granted this bail subject to following conditions: -

1. Petitioner shall not leave the territory of India without express leave of this Court till the completion of investigation and thereafter of the Trial Court during the Trial, if any.
2. The petitioner shall not tamper with prosecution evidence and shall also not dissuade any person acquainted with the facts of the case from speaking the truth.
3. Petitioner shall regularly attend the trial of the case before learned Trial Court and shall not cause any delay in its conclusion.
4. Petitioner shall be liable for immediate arrest in the instant case in the event of petitioner violating the conditions of this bail.

The application stands disposed of.

10. Any opinion expressed hereinabove shall be construed only for the purposes of disposal of this application and shall have no effect on the merits of the case.