

(1976) 04 SHI CK 0004

In the High Court Of Himachal Pradesh

Case No : Cr.M.P. (M) No's. 38, 40, 41, 42, 43 and 44 of 1976

Rattan Chand and Others

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 08-04-1976

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 167(2), 439
Defence and Internal Security of India Rules, 1971 — Rule 134, 36(6), 43

Citation : (1977) ShimLC 121

Hon'ble Judges : C.R. Thakur, J

Bench : Single Bench

Advocate : M.G. Chitkara and M.V. Sharma, for the Appellant; B. Sita Ram, General, for the Respondent

Judgement

Chet Ram Thakur, J.—These bail applications being Cr. M.P. (M) 41 to 44, 37, 38 and 40 of 1976, u/s 439 of the Code of Criminal Procedure and Rule 134 of the Defence of Internal Security of India Rules 1971 have been filed on behalf of the Petitioners in all the cases through their Counsel M.G. Chitkara and M.V. Sharma, Advocates. The allegations for their detention are the same in all the petition, inasmuch as the Petitioners are alleged to have contravened the provisions of Rules 43 and 36(6)(e) of the aforesaid Rules. The Petitioners by these applications have denied the allegations on the basis of which they have been arrested and detailed. They had also filed applications for their bail before the learned Sessions Judge also who dismissed the same.

2. Now the Petitioners submit that under the provisions of proviso to Sub-section (2) of Section 167 of the Code of Criminal Procedure they cannot be detained for more than 60 days.

3. The Respondent has not filed any reply nor have the records been made available although the cases had been adjourned from time to time for that purpose. It is, however, stated that the Petitioners are no longer in police custody, the challans have since been put up before the Tribunal and which has

taken cognizance. However, the learned Advocate-General is not aware when the trial is to commence. It is stated that from the information that he has received, the Petitioners have been summoned to appear before the Tribunal on April 27, 1976, but it is not known whether the trial would commence on that date or not.

4. The Petitioners are prepared and willing to furnish bail bonds for their appearance before the Tribunal for purpose of trial and, in my opinion, when they are willing and there is no reason to apprehend that they will abscond or tamper with the evidence which is in the possession of the prosecution I think the Petitioners should not be denied bail when the object of detention can be achieved by requiring them to furnish adequate surety for their appearance.

5. As there is no reply nor the record has been made available, I think it expedient in the interest of justice to release the Petitioners on bail on their furnishing personal bail bonds in the sum of Rs. 3000/- each with one-surety in the like amount each to the satisfaction of any Magistrate either Judicial or Executive at Dharamsala.

6. The Petitioners are, however, directed not to tamper with the evidence or to abscond. Copy may be given on payment of usual charges.