
(2011) 12 SHI CK 0290
In the High Court Of Himachal Pradesh
Case No : Criminal MP (M) No. 1009 of 2011

Rattan Lal

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 19-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 437, 438, 439
Penal Code, 1860 (IPC) — Section 406, 409, 420, 467, 468

Citation : (2011) 12 SHI CK 0290

Hon'ble Judges : Kuldip Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Kuldip Singh, Judge

1. This is an application u/s 439 Cr.P.C. for releasing the petitioner on bail in FIR No. 315 of 2011 dated 30.9.2011 registered at Police Station, Paonta Sahib, under Sections 420, 406, 409, 467, 468 and 471 IPC.

2. It has been stated that the complainant Om Parkash lost the election of Pradhan, Gram Panchayat twice from the petitioner. The wife of the petitioner is now Pradhan of Gram Panchayat and, therefore, due to political rivalry the complainant has lodged a false complaint against the petitioner, who is innocent.

3. It has been alleged that during MNREGA work the attendance of certain persons have been shown at two different places, certain works are of below prescribed standard and several irregularities have been carried out. It has been stated that police has already taken the relevant record into their possession and no recovery is to be made from the petitioner. The petitioner filed Cr.MP(M) No. 844 of 2011 u/s 438 Cr.P.C. in this Court which was rejected on 24.10.2011. The petitioner surrendered on 4.11.2011 and since 8.11.2011 he is in judicial custody. The petitioner filed application u/s 437 Cr.P.C. which has been rejected by the Judicial Magistrate 1st Class, Court No.2 Paonta Sahib on 8.11.2011. The

bail application u/s 439 Cr.P.C. has been rejected by the Additional Sessions Judge, Sirmaur District at Nahan on 2.12.2011.

4. On 16.11.2011 the High Court has directed to complete the investigation in three months. The learned Additional Sessions Judge has misconstrued the order dated 16.11.2011 of the High Court. It has been stated that the petitioner is ready to furnish bail bonds in accordance with the directions of this Court. Prayer has been made for releasing the petitioner on bail.

5. The status report has been filed. As per the statement of the complainant recorded u/s 154 Cr.P.C. the petitioner has misused the government funds by showing one person working at two places in muster-rolls and those persons are i) Jai Prakash, son of Sh. Surender, ii) Mohammad Rafeeq, son of Shri Raseed, iii) Jai Prakash son of Shri Roda Ram, iv) Rafeeq, son of Shri Fakkar Ali, v) Raghubir, vi) Suresh Kumar, vii) Balbir, viii) Naresh Kumar ix) Shukar Ali, x) Narata Ram, xi) Mahinder xii) Ali Sher, xiii) Prayag Raj.

6. It has been stated that street from the house of Ashik Ali to the house of Mangat Ram was constructed by PWD and not by the Panchayat. At Doiwala no culvert was constructed which has been shown as constructed. Similarly, no drinking water tank has been constructed at village Majri which has been shown as constructed. The retaining wall constructed near the field of Bahadur Singh with the stones taken from Batta river and not after carrying boulders on tractor, the receipt of ` 1,14,660/- showing carriage of boulders is fake. The retaining wall was constructed near the field of Noor Mohammad, Fakkar Ali by using local stones and not from the boulders taken from Yamuna River. Raj Kumar is a driver for the last many years who has been shown on work on muster rolls. Shadi Ram is a Panchayat Chowkidar and had been shown on muster roll. Raj Karan is working on contract in the University at Dhaula Kuan, has been shown on work on muster roll. Sukh Ram is working in a Company, has been shown on work on muster roll. The names of 13 labourers have been shown in the muster roll of January, 2009, but it bears the signatures of 12 labourers only.

7. It has further been stated that Jai Prakash son of Bagga Ram has signed in muster roll of December, 2008 in English but in the muster roll of February, 2009, he had signed in Hindi. Akram, is studying in school but has been shown in the muster-roll. Yanu Ram had been shown on work, but in January, 2010 in place of Yanu Ram, Prayag Ram had signed. The quotations were written by Rattan Lal, petitioner, which are fake. There is no quotation for the year 2008-09. There are no details of shuttering bills, directly amounts have been shown and the receipts are forged. Most of the receipts given by Sukh Dev, owner of tractor No. HP-17B-9316 are forged. Some of the receipts in the name of nephew of Rattan Lal and some in the name of Sukh Dev are forged. The petitioner is the owner of tractor Nos. HP-17-4056, HP-17B-9316 and HP-17B-0795, but receipts are in the name of his nephews. Naresh Kumar son of Shri Roshan, Sukh Ram, son of Shri Mada Ram, Naresh Kumar son of Shri Mada Ram, Ashok Kumar son of Shri Gita Ram, Rangeel Singh son of Shri Chuhad Singh and Bilu son of Shri

Puttru Ram, are working in Iron Valley, the petitioner has marked their presence on the muster rolls and forged their signatures. Malkiyat Singh, son of Shri Budh Ram, is working in Air Tel Office at Paonta Sahib, his presence has been shown in the muster roll. Ashok Kumar, son of Shri Ram Sawrup, never worked in the Panchayat as labourer, but on muster roll his presence has been marked and signatures have been forged. On the statement of complainant the case has been registered.

8. It has come during investigation that irregularities have been found in misutilisation of government funds. The receipt of Tractors Nos. HP-17-4056 and HP 17B-0795 amounting to ` 3,83,295/- are in the name of nephews of petitioner, but the petitioner is owner of these tractors. The petitioner mis-used his position as Pradhan, Gram Panchayat and took work from his tractors in order to give benefit to his family. The petitioner by using the double names in muster-rolls has caused huge financial loss to the government. It has been stated that investigation in the case is not yet complete. The assessment of various works in question is yet to be done and the concerned Assistant Engineer, HPPWD has been requested vide letter dated 17.12.2011 for this purpose. The apprehension has been shown that petitioner is an influential person, his wife is present President of Gram Panchayat Rampur Bharapur and in case he is released on bail at this stage he is likely to influence the prosecution witnesses and the investigation. A prayer has been made for rejection of bail application.

9. I have heard both sides and perused the police file. In CWP No.7968 of 2011-J the High Court on 16.11.2011 has directed that investigation in FIR No. 315 of 2011 shall be completed within a period of three months and challan shall be put up in appropriate criminal court immediately after completing all codal formalities. In view of serious allegations against the petitioner and the investigation is still in progress and apprehension of the investigating agency that petitioner being an influential person is likely to influence the prosecution witnesses, the petitioner is not entitled to bail u/s 439 Cr.P.C. at this stage. Accordingly, the application is rejected at this stage.

10. The observations made in this judgment are for disposal of bail application only and the same shall not be construed as an expression of opinion on the merits of the case.