
(2013) 12 SHI CK 0020

In the High Court Of Himachal Pradesh

Case No : Criminal MP (M) No. 11802 of 2013

Sanjay Sharma

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 23-12-2013

Acts Referred:

Citation : (2013) 12 SHI CK 0020

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Advocate : Randeep Rai and Mr. Ajay Kumar, s and M/s. Dheeraj Vashisht, Mohinder Singh Nain, Vikrant Thakur, Gautam Dutt, Parshotam Chaudhary and D.S. Brar, for the Appellant; Meenakshi Sharma and Mr. Parmod Thakur, Addl. A.G.s. and Mr. Ramesh Thakur, Asstt. A.G., for the Respondent

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—Petitioner is seeking bail in case FIR No. 14/2013 dated 3.10.2013 under Sections 447, 120B of the Indian Penal Code, Section 3 of the Prevention of Damage to Public Property Act and Section 13(2) of the Prevention of Corruption Act, registered at Police Station State Vigilance and Anti Corruption Bureau, Dharamshala, District Kangra, H.P.. The petitioner has been working as Public Relation Officer of the Himachal Pradesh Cricket Association (HPCA) on honorary basis. The Deputy Commissioner, Kangra, had convened a meeting on 14th March, 2008 with the Sub Divisional Magistrate, Executive Engineer, Assistant Engineer (PWD) Dharamshala and Principal Government College Dharamshala. The decision was taken to re-allocate new residential quarters to the Lecturers of Government College Dharamshala. The petitioner also participated in the meeting. The Executive Engineer Dharamshala informed the Deputy Commissioner on 11.4.2008 that T-IV quarters constructed opposite Cricket Stadium at Dharamshala were in dilapidated condition and were beyond economical repairs. Thereafter, the HPCA sent a communication to the Sports Department, Government of Himachal Pradesh on 3.7.2008 seeking allotment of

land adjacent to the Cricket Stadium at Dharamshala. The NOC was granted by the Principal Secretary (Higher Education) to the Government of Himachal Pradesh vide letter dated 22.7.2008 subject to following conditions:

a) Suitable land is allotted by the D.C. Kangra for construction of staff quarters; and

b) Alternate accommodation is to be provided to the allottee, who is staying in the residential quarters on this land.

2. The Special Secretary (YSS) to the Government of Himachal Pradesh sent a communication dated 6th August 2008 to the Deputy Commissioner, Kangra, requesting him to take immediate steps for getting the case finalized since the NOC had been granted by the Principal Secretary (Higher Education).

3. According to the prosecution, the petitioner could not unauthorizedly participate in the meeting convened by the Deputy Commissioner Kangra on 14.3.2008. He had exerted pressure for the allotment of the land in connivance with the government officers/officials.

4. The petitioner is merely a spokesperson of HPCA. A conscious decision has been taken by the Government functionaries, who participated in the meeting held on 14.3.2008 under the Chairmanship of the Deputy Commissioner, Kangra at Dharamshala, for demolition of existing quarters.

5. A query was put to the respondent-State during the course of hearing of the petition-whether any FIR has been registered against the Deputy Commissioner, Kangra, at Dharamshala? The answer was that no FIR till date has been registered against the Deputy Commissioner, Kangra at Dharamshala, who had convened the meeting on 14.3.2008.

6. The Executive Engineer, HPPWD, Dharamshala, as noticed hereinabove, had certified that T-IV quarters constructed opposite Cricket Stadium at Dharamshala were in dilapidated condition and were beyond economical repairs. Necessary NOC to lease out the land comprising Khasra No. 3547/3335/2/1 measuring 720.00 sq. mts. has been granted by the Principal Secretary (Higher Education) on 22.7.2008. The Special Secretary (YSS) to the Government of Himachal Pradesh has informed the Deputy Commissioner, Kangra at Dharamshala of this decision on 6th August 2008. Conditions have been put while granting the NOC to the HPCA by the Principal Secretary (Higher Education) that the suitable land be allotted by the D.C. Kangra for construction of staff quarters and alternate accommodation was to be provided to the allottees, who were staying in the residential quarters on this land.

7. Petitioner was granted interim bail by the Court on 5.12.2013. He was ordered to remain associated with the investigation of the case as and when required to do so.

8. Mr. Parmod Thakur, learned Additional Advocate General, on the basis of

instructions imparted to him by the Investigating Officer, submits that the petitioner has not joined the investigation. However, fact of the matter is that the respondent-State has not filed any application to this effect. In case the petitioner has not cooperated during the course of the investigation, the police ought to have filed an application for cancellation of interim bail of the petitioner.

9. Mr. Randeep Rai and Mr. Ajay Kumar, learned Senior Advocates submit that the petitioner in fact has joined the investigation as and when called for.

10. The respondent-State has failed to point out the precise role of the petitioner in acquisition of the land/demolition of the existing quarters for the construction of Stadium at Dharamshala and encroachment and damage to the public property. The incident has taken place in the year 2008, however the FIR has been registered on 3.10.2013. The decision at the government level is taken by the Government officers/officials. They are not to be influenced by the private individuals.

11. Mr. Parmod Thakur, learned Additional Advocate General, further submitted that the petitioner has not supplied the record.

12. As noticed above, the petitioner is only a Public Relation Officer/Spokesperson of the HPCA. He was not the custodian of the record. No recovery is required to be effected from the petitioner. He is permanent resident of District Kangra and has deep roots in the society. He would always be available to face the trial.

13. Consequently, the petition is allowed and the interim order dated 5.12.2013 is made absolute subject to following conditions:-

(a) The petitioner shall make himself available for the purpose of interrogation, 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;

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

(c) He shall not make any inducement, threat or promises 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

(d) He shall not leave the territory of India without the prior permission of the Court.

14. It is clarified that if the petitioner misuses the liberty or violates any of the conditions imposed upon him, the investigating agency shall be free to move this Court for cancellation of the bail. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of the petition alone.

Copy dasti.