
(2020) 08 SHI CK 0381

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 1471, 1472 Of 2020

Santosh Balyani And Others

APPELLANT

Vs

State Of H.P

RESPONDENT

Date of Decision : 28-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164
Indian Penal Code, 1860 — Section 354, 376D, 506

Citation : (2020) 08 SHI CK 0381

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : Tarun Pathak, Shiv Pal Manhans

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

1. Status report stands filed, wherein statement of complainant, on the basis of which FIR has been registered, has been reproduced.

2. As per status report, it was stated by the complainant that on 18.8.2020, when she was going from her village Padhar to Mandi, one Santosh, a relative of her friend, had met her and had asked her to accompany him to Mandi, whereupon she accompanied him and on arriving at Mandi, he had offered to go back with him in the evening and accordingly at about 4:00 P.M. Rajat and Santosh had met her at Mandi and she had accompanied them in their vehicle. They drove the vehicle on Kataula road. On her asking for reason to that, they explained that they were having some work on that road and from there they will go to Drang. However, instead of going towards Drang, they moved the vehicle towards Dynapark road and Santosh started molesting her and on her resistance, Rajat stopped the vehicle and Santosh locked the vehicle from outside, whereas Rajat violated her in the vehicle.

3. It is stated in status report that on the basis of her statement FIR was

recorded. However, before the Medical Officer, complainant had refused to get her medically examined, internally or externally. Her refusal was taken in MLC.

4. Along with status report, statement of victim, recorded under Section 164 Cr.P.C., has also been produced, wherein she has stated that she had suffered loss of Rs. 1,44,000/- for fraud committed upon her and to inquire about that, she had visited Mandi in the vehicle of Santosh and Rajat and while returning along with them it were late hours and because of rain their vehicle was stuck in the mud and it took two and half hours to come out and thereafter, at another place, there was a landslide and about for half an hour they were stuck again and for that reason she reached at home too late, whereupon her family members started abusing her and they did not listen to her version and as she was already under depression due to fraud, she became tense and because of tension and depression she lodged FIR on next date.

5. Considering the entire facts and circumstances placed on record, I find that petitioners deserve to be enlarged on bail at this stage. Accordingly, they are directed to be released on bail in case FIR No. 32 of 2020, dated 19.8.2020, registered under Sections 376D, 354, 506 IPC in Women Police Station, Mandi, H.P., on their furnishing personal bonds each in the sum of Rs.50,000/- with one surety each in the like amount, to the satisfaction of trial Court, within two weeks from today, subject to further following conditions:-

(i) That the petitioners shall make themselves available to the police or any other Investigating Agency or Court in the present case as and when required;

(ii) that the petitioners shall not directly or indirectly 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 Court or to any police officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses;

(iii) that they shall not obstruct the smooth progress of the investigation/trial;

(iv) that the petitioners shall not commit the offence similar to the offence to which they are accused or suspected;

(v) that the petitioners shall not misuse their liberty in any manner;

(vi) that the petitioners shall not jump over the bail;

(vii) that they shall keep on informing about the change in address, landline number and/or mobile number, if any, for their availability to Police and/or during trial;

(viii) Petitioners shall not leave India without permission of the Court.

6. It will be open to the prosecution to apply for imposing and/or to the trial Court to impose any other condition on the petitioners as deemed necessary in the facts and circumstances of the case and in the interest of justice.

7. In case the petitioners violate any conditions imposed upon them, their bail shall be liable to be cancelled. In such eventuality, prosecution may approach the competent Court of law for cancellation of bail, in accordance with law.

8. Learned trial Court is directed to comply with the directions issued by the High Court, vide communication No.HHC.VIG./Misc. Instructions/93-IV.7139 dated 18.03.2013.

9. Observations made in this petition hereinbefore shall not affect the merits of the case in any manner and are strictly confined for the disposal of the bail application.

10. The petitioners are permitted to produce copy of order downloaded from the High Court website and the trial Court shall not insist for certified copy of the order, however, he may verify the order from the High Court website or otherwise.

The petitions stand disposed of in the aforesaid terms. Dasti copy on usual terms.