

(2021) 05 SHI CK 0053

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No.461, 794 Of 2021

State Of Himachal Pradesh And Others

APPELLANT

Vs

Manoj Kumar & Others

RESPONDENT

Date of Decision : 06-05-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 304, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 341, 452, 506

Citation : (2021) 05 SHI CK 0053

Hon'ble Judges : Anoop Chitkara, J

Bench : Single Bench

Advocate : Nand Lal Thakur, Sudhir Thakur, Karun Negi, Nand Lal Thakur

Final Decision : Dismissed/Allowed

Judgement

Anoop Chitkara, J

1. Both these petitions are being taken up and decided together because arisen from the same FIR. Cr.MP(M) No. 461 of 2021 has been filed by the

State of Himachal Pradesh seeking cancellation of the bail granted by this Court to the accused in their bail petitions Nos. 2282, 2283 and 2284 of

2020, vide order dated 31st December, 2020.

2. The petitioners have also filed a fresh bail petition Cr.MP(M) No.794 of 2021 on the ground that at the time of previous bail petition FIR was

registered under Sections 452, 323 IPC. Now due to the death of the one of the injured Hari Chand, the Police have inserted Section 304 IPC and

regarding injuries to Har Gopal, converted Section 326 to 307 IPC.

3. Based on the complaint of Shubham Thakur, the police registered FIR No.99 of 2020, dated 27.12.2020, under Section 452, 323, 325, 326, 341, 506

7. After that the State filed an application for cancellation of the bail whereas the accused persons also filed the bail application because of the addition of new offences of Sections 304 and 307 IPC.

8. Mr. Sudhir Thakur, learned Senior Advocate appearing for the accused has drawn the attention of this Court to FIR No.98/2020, registered in Police Station, Kasauli, on 26th December, 2020 at 17.30 hours. He submits that this FIR is prior in time to the FIR registered on the basis of the complaint of the injured.

ANALYSIS AND REASONING:

9. Reference to FIR No. 98/20, registered in Police Station Kasauli, reveals that as per the version of the accused the occurrence had taken place in the fields on account of land dispute. To the contrary, as per the version of the complainant, the occurrence had taken place in their compound. Even otherwise, at this stage, for the purpose of bail, it cannot be concluded that cause of death of Hari Chand was due to the injuries received in this incident. Any further observations on this Count may prejudice the case of the prosecution, as such this Court restrains and refrains itself from further comments. Regarding Section 307 IPC, the investigator without any further medical opinion, simply converted the initial offence of Section 326 to Section 307 IPC.

10. It is not disputed that the petitioners are joining investigation. There is also no allegations of their threatening the complainant party, in any manner.

11. Given above, the petition filed by the State, Cr.MP(M) No. 461 of 2021, for cancellation of bail is dismissed and the petition filed by the accused

Cr.MP(M) No. 794 of 2021 is allowed and they are directed to be released on bail on their furnishing bail bonds, on the same terms and conditions as

was imposed vide order dated 31.12.2020 in Cr.MP (M) Nos.2282, 2283 and 2284 of 2020.

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