
(2021) 11 SHI CK 0027

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 2065, 2067 Of 2019

Suman Kumar And Others

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 11-11-2021

Acts Referred:

Citation : (2021) 11 SHI CK 0027

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Pushpender Singh Jaswal, Desh Raj Thakur, Narinder Thakur, Kamal Kishore

Final Decision : Disposed Of

Judgement

Sandeep Sharma, J

1. Since all these bail petitions arise out of same FIR, same were taken up together and are being disposed of vide this common judgment.

2. Sequel to order dated 28.10.2021, whereby petitioners were ordered to be enlarged on bail in the event of their arrest in case FIR No. 7, dated 19.4.2021, under S.498-A and 34 IPC registered at Women Police Station, Shimla, District Shimla, Himachal Pradesh, respondent-State has filed status report. LHC Asha No. 129, I/O, Women Police Station, Shimla, Himachal Pradesh, has also come present with record. Record perused and returned.

3. Mr. Desh Raj Thakur, learned Additional Advocate General, while fairly admitting the factum with regard to joining of investigation by the petitioners herein pursuant to order dated 28.10.2021, submits that though nothing remains to be recovered from the bail petitioners but keeping in view the gravity of offence alleged to have been committed by the bail petitioners, they do not deserve leniency and their prayer for bail deserves outright rejection. However, in

case this court intends to enlarge them on bail, they may be imposed stringent conditions. .

4. Hon'ble Apex Court in Criminal Appeal No. 227/2018, Dataram Singh vs. State of Uttar Pradesh & Anr decided on 6.2.2018 has held that freedom of an individual can not be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty.

5. Hon'ble Apex Court in Sanjay Chandra versus Central Bureau of Investigation (2012)1 Supreme Court Cases 49 has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative.

6. In Manoranjana Sinh alias Gupta versus CBI, (2017) 5 SCC 218, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise also, normal rule is of bail and not jail. Apart from above, Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment, which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

7. The Apex Court in Prasanta Kumar Sarkar versus Ashis Chatterjee and another (2010) 14 SCC 496, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.

8. In view of above, bail petitioners have carved out a case for themselves, as such, present petitions are allowed. Orders dated 28.10.2021 are made absolute, subject to the bail petitioners furnishing fresh bail bonds in the sum of Rs.30,000/- each with one local surety in the like amount, to the satisfaction of the investigating officer, besides the following conditions:

(a) They shall make themselves 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) They shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

(c) They 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) They shall not leave the territory of India without the prior permission of the Court.

9. It is clarified that if the petitioners misuse the liberty or violate any of the conditions imposed upon them, the investigating agency shall be free to move this Court for cancellation of the bail.

10. 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 these petitions alone.

The petitions stand accordingly disposed of.

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