

(2014) 05 SHI CK 0106
In the High Court Of Himachal Pradesh
Case No : Cr. M.P (M) No. 513 of 2013

Vikram Negi

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 02-05-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 439
Penal Code, 1860 (IPC) — Section 202, 302, 34, 376

Citation : (2014) 05 SHI CK 0106

Hon'ble Judges : Tarlok Singh Chauhan, J

Bench : Single Bench

Advocate : Satyen Vaidya, Advocate for the Appellant; Meenakshi Sharma, Addl. Advocate General, Ms. Parul Negi, Mr. R.P. Singh, Dy. A.Gs and Sh. Viri Singh, Sub-Inspector/Incharge, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Tarlok Singh Chauhan, J.—The petitioners have preferred these petitions, u/s 439 Cr.P.C., for grant of bail in case FIR No. 35 of 2014 dated 21.2.2014, registered at Police Station, Dhalli, Shimla, under sections 302, 376, 202 read with section 34 IPC. The status report has been filed by the respondent-State.

2. The prosecution story as emerges is that on 21.2.2014, at about 12.05 a.m., Sh. Deep Ram Sharma, driver of Tanker bearing registration No. HR- 37B-6499 reported to police station, Dhalli that when he was returning back from Bithal Rampur to Shimla, then at place Rain Shelter Sadhora, they found a lady in naked position, who was crying to save her. There was a car parked nearby in which three-four people were sitting. They did not stop out of fear. On this information, the investigation team rushed to the spot and found a dead body of a lady in a naked state. On the basis of rukka, FIR was registered. Investigating agency swung into action. There were tyre marks of vehicle found on the spot. The post mortem examination of the dead body was conducted. The visera, vaginal swab and smear were sent for chemical analysis to Forensic Laboratory

Junga. The accused persons were arrested. It was revealed that accused Pankaj Modi had caused the death of lady, who was later on identified to be Chitra, by crushing her inside the wheels of Maruti Alto bearing registration No. HP-01A-2723. All the other accused persons including petitioners were also arrested for the participation in crime of alleged offence. Hence, accused persons were booked for commission of offence of rape coupled with murder of deceased Chitra in furtherance of common intention and intentionally omitting to give any information in respect of that offence which they were legally bound to give.

3. The prosecution has mainly relied on the statement of Kumari Anjana, recorded u/s 161 Cr.P.C. to oppose the bail applications and it is alleged that petitioners are accused of having committed not only a serious but a heinous offence. It is stated that here was a case where a lady had been crying for help but was found murdered in cold blood and in a most diabolic manner because she had died as a result of crush injury. As per medical opinion, the cause of death was shock in haemorrhage as a result of multiple ante mortem injuries. All injuries described are anti mortem in nature. Not only this, there were as many as 48 external ante mortem injuries found on the deceased.

4. Mr. Satyen Vaidya, learned counsel for the petitioners has pointed out that this court has already released on bail three of the other co-accused vide order dated 26.4.2014, copy whereof is annexed as Annexure P-1 and, therefore, the present petitioners should also be released on bail. The respondents have opposed this prayer on the ground that the offence committed is not only serious, but heinous one and, therefore, no leniency can be shown to the petitioners. It is also contended that three petitioners were already released on bail only on account of the fact that they were ladies. I have perused the status report and the complete record of investigation and find that the role and complicity attributed to the present bail petitioners is in no way and in no manner different from the one attributed to the co-accused, who have already been ordered to be released on bail.

5. The learned Additional Advocate General is not correct when she states that the co-accused had been granted bail by this court only on account of the fact that they were ladies. In fact, this court had examined the complete file of the prosecution and had taken into consideration the entire facts and circumstances, more particularly, the statement of Kumari Anjana Kashyap and it is only thereafter that the co-accused had been granted bail. I have already observed hereinabove that for the present the role attributed to the petitioners is same and similar to the accused, who have already been ordered to be released on bail, I find this to be a fit case where bail petitioners ought to be released on bail.

6. Accordingly, the petitioners are ordered to be released on bail subject to the following conditions:-

(i) Petitioner Tara Chand shall furnish bail bonds in the sum of Rs. 50,000/- with one solvent security to the satisfaction of Chief Judicial Magistrate, Shimla,

District Shimla, H.P.

(ii) Petitioner Vikram Negi shall furnish bail bonds in the sum of Rs. 1,00,000/- with two local sureties of the like amount(s) to the satisfaction of Chief Judicial Magistrate, Shimla.

(iii) it is clarified that the petitioners shall fully co-operate with the investigation;

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

(v) they shall not 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 the Court or the Police Officer;

(vi) they shall not leave the country without prior permission of the Court.

The learned Chief Judicial Magistrate, Shimla, District Shimla 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.

7. Any observation made hereinabove shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the matter uninfluenced by any observation made hereinabove.

Both the petitions stand disposed of.

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