
(2017) 10 SHI CK 0006
In the High Court Of Himachal Pradesh
Case No : 1294 & 1295 of 2017

Yajul Shrot alias Baba, & Anr.

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 24-10-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 438](#) - Direction for grant of bail to person apprehending arrest
[Indian Penal Code, 1860](#), [Section 435](#),
[Section 34](#), [Section 436](#), [Section 189](#), [Section 186](#) - Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees - Acts done by several persons in furtherance of common intention - Mischief by fire or explosive substance with intent to destroy house, etc - Threat of injury to public servant - Obstructing public servant in discharge of public functions
[Prevention of Damage to Public Property Act, 1984](#), [Section 3](#) - Mischief causing damage to public property

Citation : (2017) 10 SHI CK 0006

Hon'ble Judges : Sandeep Sharma

Bench : Single Bench

Advocate : Sanjeev Bhushan, Ashish Jamalata, P.M.Negi, M.L.Chauhan

Judgement

1. By way of above captioned bail petitions filed under Section 438 Cr. P.C, prayer has been made for grant of bail in case FIR No. 59 of 2017, dated 18.09.2017, under Sections 435, 436, 186, 189, 34 IPC and Section 3 of Prevention of Damage of Public Property Act, registered at Police Station Nirmand, District Kullu, Himachal Pradesh.

2. Sequel to order dated 13.10.2017, ASI Mehar Chand, Police Station, Nirmand, District Kullu, has come present in Court alongwith the record of the case. Mr. M.L. Chauhan, learned Additional Advocate General, has also placed on record status report prepared on the basis of the investigation carried out by the Investigating Agency. Record perused and returned the same.

3. Mr. M.L. Chauhan, learned Additional Advocate General, stated before this Court that bail petitioners have joined investigation in terms of order dated 13.10.2017 and at this stage, nothing is to be recovered from the bail petitioners. Mr. Chauhan, further stated that bail petitioners can be granted interim bail but subject to the condition that they shall make available themselves for investigation as and when required by Investigating Agency.

4. 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. Petitioner is local resident of the place mentioned in the application and he shall remain available to face the trial and to undergo imprisonment, if any, imposed upon him.

5. The Apex Court in *Prasanta Kumar Sarkar versus Ashis Chatterjee and another* (2010) 14 SCC 496, has laid down the following principles to be kept in mind, while deciding petition for bail:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (viii) reasonable apprehension of the witnesses being influenced; and
- (ix) danger, of course, of justice being thwarted by grant of bail.

6. In view of the aforesaid discussion, petitioners have carved out a case for grant of bail. Accordingly, the order dated 13.10.2017 is made absolute subject to following conditions:-

- (a) They 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) 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.

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

8. 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 this application alone. The petitions stand accordingly disposed of.

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