

Jasbir Singh Vs State Of Himachal Pradesh

Court: High Court Of Himachal Pradesh

Date of Decision: Feb. 24, 2020

Acts Referred: Code Of Criminal Procedure, 1973 " Section 439

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 " Section 3(1)(r)(s)

Prevention Of Cruelty To Animals Act, 1960 " Section 11

Hon'ble Judges: Chander Bhusan Barowalia, J

Bench: Single Bench

Advocate: Anshul Attri, Manju Dhatwalia, Shiv Pal Manhans, P.K. Bhatti

Final Decision: Allowed

Judgement

Chander Bhusan Barowalia, J

1. The present bail application has been maintained by the petitioner under Section 439 of the Code of Criminal Procedure seeking his release in case

FIR No. 213 of 2019, dated 08.12.2019, under Sections 3(1)(r)(s) SC&ST Act and Section 11 of Animal Cruelty Act, registered in Police Station

Palampur, District Kangra, H.P.

2. As per the averments made in the petition, the petitioner is innocent and has been falsely implicated in the present case. He is permanent resident of

the place and neither in a position to tamper with the prosecution evidence nor in a position to flee from justice. No fruitful purpose will be served by

sending him behind the bars for an unlimited period, so he be released on bail.

3. Police report stands filed. As per the prosecution story, on 08.12.2019 complainant (name withheld) made written complaint to the police wherein

she alleged that on 07.12.2019 at about 7 p.m. when her buffalos did not return, she went towards jungle in search. When the complainant reached

near a junction, she heard noise and later on her two buffalos came running and the petitioner was chasing with a stick. The petitioner told her that the

buffalos destroyed his crop. After some time another buffalo came and the complainant noticed that the buffalo was bleeding, so the complainant

returned to ask the petitioner as to why he gave beatings to her buffalos. The complainant met the petitioner and an altercation took place in front of

Gopal Dass and Somnath etc. The complainant reported the matter to Ward Panch and it was decided to report the matter to the police. On

08.12.2019 at about 07:30 a.m. petitioner came and started abusing them and he used racial remarks. Upon the complaint, so made by the

complainant, police registered a case and the investigation ensued. Police got conducted the medical of the buffalo of the complainant, spot map was

prepared and the statements of the witnesses were recorded. Police recovered the stick, which the petitioner allegedly used in giving beatings to the

buffalos. Police recorded the statements of the witnesses and also obtained the caste records of the complainant and also that of the petitioner. After

completion of investigation, challan was presented in the Court on 04.02.2020. Lastly, it is prayed that the bail application of the petitioner be

dismissed, as the petitioner has committed a serious crime. In case the petitioner is enlarged on bail, at this stage, he may tamper with the prosecution

evidence and may also flee from justice, so the bail application of the petitioner be dismissed.

4. I have heard the learned Counsel for the petitioner, learned Additional Advocate General for the State and gone through the record, including the

police report, carefully.

5. The learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. He has further argued that the

petitioner is permanent resident of the place and neither in a position to tamper with the prosecution evidence nor in a position to flee from justice. He

has further argued that no fruitful purpose will be served by sending the petitioner behind the bars for an unlimited period. The investigation in the case

is complete, challan stands presented in the learned Trial Court and the custody of the petitioner is not at all required by the police, so the petition may

be allowed and the petitioner may be enlarged on bail. Conversely, the learned Additional Advocate General has argued that the petitioner has

committed a serious crime and in case he is enlarged on bail, he may tamper with the prosecution evidence and may also flee from justice, so it is

prayed that the bail application of the petitioner may be dismissed.

6. In rebuttal the learned Counsel for the petitioner has argued that the petitioner cannot be sent behind the bars for an unlimited period, especially

when investigation is complete and in the wake of the fact that the custody of the petitioner is not required by the police and the fact that the challan

stands presented in the learned Trial Court, so the petition be allowed and the petitioner be enlarged on bail.

7. The petitioner was enlarged on interim bail by this Court on 16.12.2020, but today he is not present in the Court.

8. At this stage, considering the age of the petitioner, who is 44 years of age, the nature of the offence, the manner in which the same is alleged to

have been committed by the petitioner, the fact that custody of the petitioner is not at all required by the police, as challan stands presented in the

learned Trial Court, the petitioner is permanent resident of the place and neither in a position to tamper with the prosecution evidence nor in a position

to flee from justice, considering the overall material, which has come on record, and without discussing the same at this stage, the petitioner is ready

and willing to abide by the terms and conditions of bail, in case so granted, so this Court finds that the present is a fit case where the judicial discretion

to admit the petitioner on bail is required to be exercised in his favour. Accordingly, the petition is allowed and it is ordered that the petitioner, who is

already on interim bail, be not arrested by the police in case he no or before 26.02.2020 furnishes personal bond in the sum of Rs. 20,000/- (rupees

twenty thousand) with one surety in the like amount to the satisfaction of the learned Trial Court, in case FIR No. 213 of 2019, dated 08.12.2019,

under Sections 3(1)(r)(s) SC&ST Act and Section 11 of Animal Cruelty Act, registered in Police Station Palampur, District Kangra, H.P. The bail is

granted subject to the following conditions:

(i) That the petitioner will appear before the learned Trial Court/Police/authorities as and when required.

(ii) That the petitioner will not leave India without prior permission of the Court.

(iii) That the petitioner will 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 the Investigating Officer or Court.

8. In view of the above, the petition is disposed of.