
(2020) 06 SHI CK 0168

High Court Of Himachal Pradesh

Case No: Criminal Miscellaneous Petition (M) No. 933 Of 2020

Ashwani Kumar

APPELLANT

Vs

State Of H.P

RESPONDENT

Date of Decision: June 24, 2020

Acts Referred:

Indian Penal Code, 1860 " Section 323, 451, 506#Scheduled Castes And Tribes (Prevention Of Atrocities) Act, 1989 " Section 3(1)(s), 3(i)(r)(s), 18, 18A#Code Of Criminal Procedure, 1973 " Section 438, 439

Citation: (2020) 06 SHI CK 0168

Hon'ble Judges: Anoop Chitkara, J

Bench: Single Bench

Advocate: Ajay Sharma, Amit Jamwal, Ashwani Sharma, Nand Lal Thakur, Ram Lal Thakur, Rajat Chauhan

Judgement

Anoop Chitkara, J

1. The petitioner, who is apprehending his imminent arrest on being arraigned as an accused in FIR No.107/2020 dated 22.6.2020, under Sections 451,

323 & 506 of the Indian Penal Code and Section 3(i)(r)(s) of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, after now

called as "SCST Act", registered in the file of Police Station, Sadar Hamirpur, District Hamirpur, H.P., disclosing non-bailable offences, has come

up under Section 439 of the Code of Criminal Procedure, surrendering before this Court and simultaneously seeking immediate interim bail.

2. I have heard learned Senior Advocate, for the petitioner. Notice. Mr. Nand Lal Thakur, Learned Additional Advocate General, appears and waives

service of notice on behalf of the respondent-State.

3. There is a possibility of more Sections of penal statutes, in the FIR, which the petitioner may not be aware at this stage.

4. The petitioner has made the following contentions in his bail petition, which are supported by an affidavit: -

(i) The petitioner claims that a false, baseless and concocted case has been registered against him.

(ii) He is permanent resident of Village Kale Amb, Post Office Ropa, Tehsil and District Hamirpur, H.P., the address mentioned in the memo of

parties and there is no likelihood of his fleeing away and that he is ready to abide by all the conditions which may be imposed upon him.

5. Section 3 (1) (s) of the Act reads as follows: -

“abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view:”

6. Section 18 and 18A of the Act bars the filing of application under Section 438 of the Code of Criminal Procedure and no anticipatory bail can be

given to a person against whom allegations under the Act are leveled. For this reason, the petition is filed under Section 439 of the Code of Criminal

Procedure for grant of regular bail and until the status report is filed by the Respondent, the petitioner is seeking ad-interim bail.

7. I am of the considered opinion that in the interim, the petitioner is entitled to be released on bail.

8. At this stage, I believe that the custodial interrogation of the petitioner is not going to serve any purpose. Such a conclusion is possible after

appreciating the response of the State and after perusing the status report. In the interim, in the event of arrest of the petitioner, he shall be released

on bail, till further orders, in connection with the FIR mentioned above, on his furnishing personal bond in the sum of Rs. 10,000/- to the satisfaction of

any Registrar, Additional Registrar, Deputy Registrar, or Assistant Registrar of High Court of Himachal Pradesh, before whom the registry posts this

file. The Registry is directed to place this order before any of the Registrar, who is available, for the purposes of furnishing personal bonds.

9. This Court is granting the interim protection subject to the conditions mentioned in this order. The petitioner undertakes to comply with all directions

given in this order and the furnishing of bail bonds by the petitioner is acceptance of all such conditions:

(a) The petitioner is directed to join the investigation as and when called by the Investigating Officer. The petitioner undertakes to appear before the

Investigating Officer as and when directed to do so. However, whenever the investigation takes place within the boundaries of the Police Station or

Police Post, then the accused shall not be called before 9:00 a.m. and shall be let off before 5:00 p.m.

(b) The petitioner shall co-operate in the investigation.

(c) The petitioner shall neither influence nor try to control the investigating officer, in any manner whatsoever.

(d) The petitioner shall not hamper the investigation.

(e) The petitioner undertakes not to contact the complainant and witnesses to threaten or browbeat them or to use any pressure tactics.

(f) The petitioner undertakes not to make any inducement threat or promise, directly or indirectly, to the investigating officer or any person acquainted

with the facts of the case to dissuade him/her from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

10. The accused need not remain present in this Court on the next date and any subsequent dates, unless specifically directed.

11. The State to file status report through e-mail or WhatsApp, on or before the next date, depicting up-to-date investigation, with an advance copy to

the counsel for the petitioner. The status report may be procured through e-mail/Whatsapp or through other options of Internet.

List on 26.6.2020 through Video Conferencing. The copy of the order downloaded and signed by the counsel for the petitioner shall be sufficient for

any purposes of this bail.