
(2020) 11 SHI CK 0113

High Court Of Himachal Pradesh

Case No: Criminal Miscellaneous Petition (M) No. 1984 Of 2020

Sheela Devi

APPELLANT

Vs

State Of Himachal
Pradesh

RESPONDENT

Date of Decision: Nov. 10, 2020

Acts Referred:

- Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 - Section 3(1)(r)(s)
- Indian Penal Code, 1860 - Section 34, 504, 506
- Code Of Criminal Procedure, 1973 - Section 439, 446, 446A

Hon'ble Judges: Anoop Chitkara, J

Bench: Single Bench

Advocate: Amit Sharma, Nand Lal Thakur

Final Decision: Allowed

Judgement

Anoop Chitkara, J

1. The petitioner, on being arraigned as accused for commission of offences punishable under Section 3 (1)(r)(s) of the Scheduled Castes &

Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 504, 506, 34 of the Indian Penal Code, 1860 (IPC), in FIR No.161 of 2020 dated

22.9.2020, registered in Police Station, Indora, District Kangra, HP, has come up under Section 439 of the Code of Criminal Procedure, 1973, seeking

permission to surrender before this Court, and simultaneously seeking release on ad-interim bail.

2. The accused/petitioner is present in Court and has offered to surrender, which is accepted, and thus, is in deemed custody of the Court.

3. Briefly the facts of the case are that on 22.9.2020, complainant who is the wife of President of Jan Kalyan Jagriti Manch Mahila Mandal, Kaptal,

District Kangra, filed a written complaint in the Police Station. The allegations leveled in the complaint are that the community members who belonged

to the so called "upper caste", forcibly led to their house and addressed them by using the prohibited words representing their caste. It further

stated that after demarcation, on the instructions of Tehsildar when the escalator machine was put to level the road, then the accused persons started

to take possession of the same and addressed the complainant by using the words representing the caste. Based on the written complaint, police

registered the aforesaid FIR.

4. Status report stands filed and taken on record. I have heard counsel for the petitioner and learned Additional Advocate General, on behalf of the

State.

5. The maximum sentence prescribed in the present FIR is seven years. Given the pronouncement of Supreme Court in Arnes Kumar v. State of

Bihar, (2014) 8 SCC 273, the Court is granting bail to the petitioner, subject to the imposition of following conditions, which shall be over and above,

and irrespective of the contents of the form of bail bonds in chapter XXXIII of CrPC. Consequently, the present petition is allowed. The petitioner

shall be released on bail in the present case, connected with the FIR mentioned above, on her furnishing a personal bond of INR 5,000/, (INR Five

thousand only) to the satisfaction of the Registrar (Judicial) or any Officer authorized by him, or by Additional Registrar (Judicial) of this Court, during

the course of the day. The furnishing of bail bonds shall be deemed acceptance of all stipulations, terms, and conditions of this bail order:

(i) The petitioner shall not obstruct the road/path leading to the house of the complainant in any manner whatsoever.

(ii) The Attesting Officer shall mention on the reverse page of personal bonds, the permanent address of the petitioner along with the phone

number(s), WhatsApp number (if any), email (if any), and details of personal bank account(s) (if available). The petitioner shall intimate about the

change of residential address and change of phone numbers, WhatsApp number, e-mail accounts, within thirty days from such modification, to the

Police Station of this FIR, and the concerned Court, if such stage arises.

(iii) The petitioner shall join investigation as and when called by the Investigating Officer or any superior officer.

(iv) The petitioner shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police

officials, or any other person acquainted with the facts of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to

tamper with the evidence.

(v) Once the trial begins, the petitioner shall not in any manner try to delay the trial. The petitioner undertakes to appear before the concerned Court,

on the issuance of summons/warrants by such Court. The petitioner shall attend the trial on each date, unless exempted .

(vi) There shall be a presumption of proper service to the petitioner about the date of hearing in the concerned Court, even if it takes place through

SMS/ WhatsApp message/ E-Mail/ or any other similar medium, by the Court.

(vii) In case of Non-appearance, then irrespective of the contents of the bail bonds, the petitioner undertakes to pay all the expenditure (only the

principal amount without interest), that the State might incur to produce him before such Court, provided such amount exceeds the amount recoverable

after forfeiture of the bail bonds, and also subject to the provisions of Sections 446 & 446-A of CrPC. The petitioner's failure to reimburse the State

shall entitle the trial Court to order the transfer of money from the bank account(s) of the petitioner. However, this recovery is subject to the condition

that the expenditure incurred must be spent to trace the petitioner and it relates to the exercise undertaken solely to arrest the petitioner in that FIR,

and during that voyage, the Police had not gone for any other purpose/function what so ever.

(viii) The petitioner shall abstain from all similar activities. If done, then while considering bail in the fresh FIR, the Court shall take into account that

even earlier, the Court had cautioned the accused not to do so.

(ix) This bail order shall ipso facto vacate if the accused attempts to browbeat the victim or repeats the offence.

(x) In case of violation of any of the conditions as stipulated in this order, the State/Public Prosecutor may apply for cancellation of bail of the

petitioner. Otherwise, the bail bonds shall continue to remain in force throughout the trial.

6. The Officer, in whose presence the petitioner puts signatures on personal bonds, shall explain all conditions of this bail order to the petitioner, in

vernacular and if not feasible, in Hindi or English.

7. In case, the petitioner finds the bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for

modification of such term(s), the petitioner may file a reasoned application before this Court, and after taking cognizance, even before the Court taking

cognizance or the trial Court, as the case may be. Such Court shall also be competent to modify or delete any condition.

8. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law.

9. The present bail order is only for the FIR mentioned above. It shall not be a blanket order of bail in any other case(s) registered against the

petitioner.

10. Any observation made hereinabove is neither an expression of opinion on the merits of the case, nor shall the trial Court advert to these comments.

11. The SHO of the concerned Police Station or the Investigating Officer shall send a downloaded copy of this order, preferably a soft copy, to the

victim, at the earliest.

12. In return for the protection from incarceration for breaking the law, the Court believes that the accused shall also reciprocate through desirable

behavior.

The petition stands allowed in the terms mentioned above. All pending applications, if any, stand closed.