
(2022) 04 SHI CK 0029

High Court Of Himachal Pradesh

Case No: Criminal Miscellaneous Petition (Main) No. 643 Of 2021

State Of Himachal
Pradesh

APPELLANT

Vs

Shiv Raj Dad Saheb
Patil

RESPONDENT

Date of Decision: April 13, 2022

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 438, 439(2)#Indian Penal Code, 1860 " Section 34, 406, 420

Citation: (2022) 04 SHI CK 0029

Hon'ble Judges: Jyotsna Rewal Dua, J

Bench: Single Bench

Advocate: Vinod Thakur, Rajat Chauhan, Ravinder Singh Chandel

Final Decision: Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. Petitioner-State has moved this petition under Section 439(2) of the Code of Criminal Procedure for cancellation of bail granted to the respondent in

FIR No.142/2020, dated 02.09.2020 under Sections 420, 406 & 34 of the Indian Penal Code registered at Police Station Theog, District Shimla, H.P..

2. Respondent-accused had moved a bail application bearing Cr.MP(M) No.1720/2020 under Section 438 of the Code of Criminal Procedure, seeking

anticipatory bail in relation to above numbered FIR. An ad-interim order was passed in the anticipatory bail application moved by the respondent-

accused on 25.09.2020, whereby subject to following conditions, the interim protection was granted to the respondent-accused:

4. As per the averments made in the petition and as canvassed by learned counsel for the petitioner, the petitioner has already made

excess payment than due to the complainant. In view of these submissions, till the next date of hearing, in the event of arrest of the petitioner

in the aforementioned FIR, he shall be enlarged on bail on his furnishing personal bond in the sum of Rs.75,000/-(Rupees Seventy Five

Thousand only) with one local surety in the like amount, to the satisfaction of the Arresting Officer, subject to following conditions:- (i). The

petitioner, at the first instance, shall appear before the Investigating Officer, Police Station Theog, District Shimla, HP, on 26.09.2020 at

11:00 am. (ii). The petitioner shall join the investigation of the case as and when called for by the Investigating Officer in accordance with

law and shall co-operate with the Investigating Agency. (iii). The petitioner shall not hamper the investigation in any manner whatsoever.

(iv). The petitioner shall not contact the complainant, threaten or browbeat him or to use any pressure tactics in any manner whatsoever.

(v). The petitioner shall not leave India without prior permission of the Court. (vi). The petitioner shall not 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.

The ad-interim protection granted vide order dated 25.09.2020 and was confirmed on 07.10.2020.

3. In the instant petition, the State has prayed for cancellation of the bail granted to the respondent-accused in Cr.M.P. (M) No.1720/2020. The

grounds set up for cancellation of the bail are that:- (a) Respondent-accused has not complied with the conditions of bail. (b) He has not furnished his

email-address. (c) He has not even handed - over his PAN Card number. (d) Neither personal bond nor local surety in terms of the order passed in

Cr.MP(M) No.1720/2020 has been furnished. (e) Time and again he was directed to join investigation by the investigating agency, however,

respondent-accused did not report back and kept his all mobile numbers switched off during the entire intervening period. (f) Notices issued to the

respondent-accused through whatsapp messages on 26.10.2020, 27.10.2020, 11.11.2020, 13.11.2020, 27.01.2021 & 22.02.2021 were duly delivered

and read by him but he did not bother to respond to the same.

4. Respondent-accused is facing accusation under Sections 406, 420 and 34 of the Indian Penal Code in FIR No.142/2020, dated 16.02.2020,

registered at Police Station Theog, District Shimla, H.P. Cr.MP(M) No.1720/2020 filed by him under Section 438 of the Code of Criminal Procedure

seeking bail in the said FIR was allowed subject to the specific terms and conditions (as reproduced earlier). The petitioner - State has prayed for

cancellation of the bail on the ground that the bail conditions have been violated by the respondent-accused. Umpteenth notices of the instant petition

were sent to the respondent-accused, but service could not be effected on him for want of his address. Bailable warrant also could not be executed on

the ground that he was not found at the given addresses. Eventually non-bailable warrant was ordered to be issued pursuant to which, respondent-

accused was brought in custody before the Court on 02.04.2022. He was sent to judicial custody vide order dated 02.04.2022. Thereafter the matter

was listed on 08.04.2022 & 11.04.2022, on which dates, the respondent-accused expressed his inability to furnish the personal and surety bonds in

compliance to order dated 07.10.2020 passed in Cr.MP(M) No.1720/2020.

Narration of the above factual position indicates that the respondent-accused has not complied with the conditions on which, his bail petition bearing

Cr.MP(M) No.1720/2020 was allowed.

Even today, he has expressed his inability to furnish his personal as well as the surety bonds in terms of the order passed in Cr.MP(M) No.1720/2020.

He did not join the investigations despite repeated directions of the investigating agency. Hence, for the above reasons, this petition is allowed. The bail

granted by this Court to the respondent-accused in terms of the order dated 25.09.2020 & 07.10.2020 passed in Cr.MP(M) No.1720/2020, in FIR

No.142/2020 dated 02.09.2020, registered under Sections 406, 420 and 34 of the Indian Penal Code registered at Police Station Theog, District Shimla,

H.P. is cancelled.

Respondent-accused shall be sent to judicial custody.

Registry is directed to prepare jail warrants, accordingly.

With these observations and directions, the instant petition is disposed of alongwith pending miscellaneous application(s), if any.