
Ketan Mehta Vs State Of H.P

Criminal Miscellaneous Petition (Main) No. 2490 Of 2022

Court: High Court Of Himachal Pradesh

Date of Decision: Nov. 28, 2022

Acts Referred:

Indian Penal Code, 1860 " Section 188, 269, 270, 279, 337, 379, 380, 411#Evidence Act, 1872 " Section 27

Hon'ble Judges: Satyen Vaidya, J

Bench: Single Bench

Advocate: Rajiv Rai, Desh Raj Thakur

Final Decision: Allowed

Judgement

Satyen Vaidya, J

1. By way of instant petition, petitioner has prayed for grant of bail in case FIR No. 66 of 2022, dated 1.10.2022, registered at Police Station,

Jhandutta, District Bilaspur, H.P. under Sections 379 and 411 of the IPC. The petitioner is in custody since 1.10.2022.

2. The complainant, who is Liasion Officer of Gawar Construction Pvt. Ltd., submitted a written complaint to the police on 1.10.2022, alleging inter-

alia that some unknown person having vehicle Hyundai (i-20), bearing registration No. HP24D-2870 had stolen steel from the store of the company.

The FIR was registered and investigation was carried. The car bearing Registration No. HP24D-2870 was found to be belonging to the father of the

petitioner and petitioner was found involved in steeling the pieces of iron bars from the store of Gawar Construction Pvt. Ltd. The petitioner was

arrested on 1.10.2022. During his police custody, petitioner is stated to have made a statement under Section 27 of the Evidence Act and in pursuance

thereof, recoveries are stated to have been effected on 3.10.2022. The total value of the stolen pieces of iron bars is stated to be Rs. 2000-2200/-. It

has also been found during investigation that petitioner had sold 22 pieces of iron bars to Devender @ Nanha. He was also interrogated and was

subsequently released. It is alleged against the petitioner that he is involved in three other cases, details of which have been provided as under:-

i) Case No. 106 of 2020, dated 7.5.2020 under Sections 188, 269 and 270 of IPC.

ii) Case No. 140 of 2021, dated 31.7.2021 under Sections 380 and 411 of IPC.

iii) Case No. 228 of 2017, dated 16.10.2017 under Sections 279 and 337 of IPC.

3. The petitioner has prayed for grant of bail on the grounds that he has been falsely implicated. It is submitted there is no legal evidence against the

petitioner to implicate him. His bail applications moved before Judicial Magistrate, 1st Class and also before learned Sessions Judge, Bilaspur have

been dismissed. The petitioner has also submitted that now the matter otherwise has been compromised with the complainant and petition for quashing

of FIR has already been filed by the complainant.

4. I have heard learned counsel for the parties and have also gone through the case file carefully.

5. The investigation in the case is complete and challan has been filed. The bail application has been opposed on the ground that the petitioner is a

habitual offender and there is a lot of resentment against him in the area.

6. The allegation against the petitioner is of stealing of iron bars worth about Rs. 2,200/- from the store of a construction company. The recoveries

have already been effected at his instance. Petitioner is in custody since 1.10.2022. A petition for quashing of FIR in question is already stated to have

been filed on behalf of the complainant on the basis of a compromise, arrived at between the parties.

7. Pre-trial incarceration is not the rule. Merely because petitioner is accused in three other cases, he cannot be denied bail in the instant case. In none

of the three cases against the petitioner, the petitioner has been convicted. All the cases are stated to be pending against him. No fruitful purpose shall

be served by prolonging the incarceration of the petitioner.

8. Petitioner is of young age. The present petition has been filed by the father of the petitioner. Petitioner is permanent resident of House No. 186,

ward No. 10, Diara Sector, Tehsil Sadar, District Bilaspur, H.P. and since his family is also concerned for the petitioner, there is no likelihood of his

absconding from the course of justice. The resentment amongst residents in the area also cannot be a ground for rejecting the bail, especially keeping

in view of the magnitude of allegation against the petitioner.

9. In view of peculiar facts and circumstances of the case, petition is allowed and the petitioner is ordered to be released on bail in case FIR No. 66 of

2022, dated 1.10.2022, registered at Police Station, Jhandutta, District Bilaspur, H.P. under Sections 379 and 411 of the IPC, on his furnishing personal

bond in the sum of Rs. 25,000/- with one surety in the like amount, to the satisfaction of learned trial Court. This order shall, however, be subject to the

following conditions: -

i) That the petitioner shall regularly attend the trial.

ii) That the petitioner shall not tamper the prosecution evidence in any manner whatsoever.

iii) That the petitioner shall 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 from disclosing such facts to the Court or to any police officer;

iv) That breach of any of the bail condition by the petitioner shall entail cancellation of the bail.

v) That the petitioner shall not leave India without prior permission of the Court.

10. Any observation made herein above shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the

matter uninfluenced by any observation made herein above.