

(2024) 12 SHI CK 0034

High Court Of Himachal Pradesh

Case No: Cr. MP(M) No. 2888 Of 2024

Ram Naresh Rana

APPELLANT

Vs

State Of H.P.

RESPONDENT

Date of Decision: Dec. 30, 2024

Acts Referred:

- Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 483
- Code of Criminal Procedure, 1973 - Section 154
- Indian Penal Code, 1860 - Section 307, 325
- Evidence Act, 1872 - Section 27

Hon'ble Judges: Virender Singh, J

Bench: Single Bench

Advocate: Aashish Kumar, Mohinder Zharaick, H.S. Rawat, Tejasvi Sharma, Rohit Sharma

Final Decision: Allowed

Judgement

Virender Singh, J

1. Applicant- Ram Naresh Rana has filed the present application, under Section 483 of the Code of Bharatiya Nagarik Suraksha Sanhita (hereinafter

referred to as "BNSS"), for releasing him on bail, during the pendency of trial, in case FIR No. 98 of 2022, dated 22.8.2022, registered with

Police Station, Keylong, District Lahaul Spiti, Himachal Pradesh, under Sections 325 and 307 of the Indian Penal Code (hereinafter referred to as

"the IPC).

2. According to the applicant, he is innocent and has not committed any offence. As per him, he has falsely been implicated, in this case and presently

is in judicial custody.

3. As per the stand of the applicant, chances of conclusion of trial, against him, are not so bright, as complainant and the alleged witnesses, present at the spot, were called by the learned trial Court, but, none of them appeared before the learned trial Court, till now.

4. Bail applicant has tried his luck by moving bail application bearing Bail Application No. 179 of 2024, before the learned Additional Sessions Judge, Kullu, District Kullu, however, the same was dismissed, on 26.9.2024.

7. The applicant, through his counsel, has given certain undertakings, for which, he is ready to abide by, in case released on bail.

8. On the basis of above facts, a prayer has been made to allow the application.

9. When put to notice, Police filed the status report, disclosing therein that on 16.8.2022, an information was received by Police Post, Kokser that a

scuffle had taken place at Shashin, upon which, H.C. Amardeep No. 29 and I.O., Police Post Kokser reached at the spot, where complainant Prem

Lal was found lying in injured condition, in his room. One Kuber Rana was also found at the spot. Thereafter, said Prem Lal was taken to PHC for

Medico-legal examination.

9.1 The Doctor opined that the patient is not fit for statement and deferred his opinion, regarding injuries, after ultrasound examination. Thereafter,

Prem Lal was referred to Regional Hospital, for further treatment.

9.2 Complainant Kuber Rana made a statement before the Police, disclosing therein, that he alongwith Prem Lal is working as Labourer with the

contractor, namely, Dil Bahadur. On 15.8.2022, complainant Kuber Rana, Prem Lal, Dinesh and Surajmaan were stated to be present in Prem

Lal's room. During night time, Naresh Rana came there while looking for his friend. As per the complaint, Prem Lal had abused Naresh Rana,

upon which, Naresh Rana (Nepalese) had a scuffle with Prem Lal. The persons, who were present there, had prevented them from harming each

other. Due to scuffle, Prem Lal sustained injuries over his head, mouth and eyes. Thereafter, Naresh Rana was stated to have left the place.

Thereafter, complainant and others took Prem Lal to his room, where Prem Lal is stated to have slept.

9.3 On the basis of above facts, Police found that the incident is with regard to the scuffle, between the complainant and the applicant and information,

in this regard, was given to Police Post, Kokser, on 22.8.2022.

9.4 The X-ray and NCCT Head report of Prem Lal were obtained and the Doctor opined that the injuries on the person of Prem Lal, are grievous, in nature, upon which, Section 325 IPC was added, in this case.

9.5 During investigation, on 22.8.2022, I.O. prepared the spot map, at the instance of Kuber Rana. The applicant was searched. On 25.8.2022, applicant Ram Naresh Rana appeared before the Police, and he was arrested the same day at 4:20 p.m.

9.5 Thereafter, he was produced before the competent Court of law and was remanded to the Police custody. On 27.8.2022, applicant Ram Naresh

Rana is stated to have made disclosure statement, under Section 27 of the Indian Evidence Act, and got recovery of danda, with which, according to

him, he had inflicted the blow on the head of injured Prem Lal. The same was taken into possession and was produced before the Medical Officer,

PHC Sissu, upon which, he has opined that the said injury could be imminent danger to life, upon which, Section 307 was also added.

9.6 On completion of investigation, Police has filed chargesheet, which is now pending in the Court of learned Additional Sessions Judge, Kullu, and

the case is now stated to be fixed on 4.5.2025, for evidence of prosecution witnesses. Five witnesses are stated to have been examined and remaining

11 witnesses are yet to be examined.

9.7 On the basis of above facts, a prayer has been made to dismiss the application.

10. The bail application has been opposed mainly on the ground that the applicant is resident of Nepal and in case, he is ordered to be released on bail,

he may not be available for trial. However, this Court is not inclined to accept the said argument, as merely, for the reason that the applicant is

resident of Nepal, the relief, for which, he is otherwise entitled to, cannot be declined to him.

11. Investigation, in the present case, is complete and the applicant is stated to be in judicial custody, since 25.8.2022. Out of 16 witnesses, 5 witnesses

are stated to have been examined. As such, it cannot be concluded that chances of conclusion of trial, against the applicant, in near future, are not so

bright. However, the applicant cannot be kept in judicial custody, as pre-trial punishment is prohibited, under the law.

12. Learned counsel for the applicant, in the present case, has rightly pointed out that the complainant, upon whose statement, FIR was registered, has not deposed about the fact that applicant has allegedly used the danda and omission of this material fact, can be taken into consideration, for releasing the applicant, on bail.

13. Admittedly, the FIR or the statement, under Section 154 Cr. P.C. are not encyclopedia of all the events and these are process to put the criminal machinery into motion, but, considering the fact that as per statement, under Section 154 Cr. P.C., there was scuffle between the parties, as such, the applicant is able to make out a case for bail, in his favour.

14. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed.

15. Consequently, the applicant is ordered to be released, on bail, in case FIR No. 98 of 2022, dated 22.8.2022, registered, under Sections 325 and 307

of the IPC, registered with Police Station, Keylong, District Lahaul & Spiti, H.P., on his furnishing personal bail bond, in the sum of Rs.2,00,000/-, with

two sureties, in the like amount, to the satisfaction of learned trial Court. This order, however, shall be subject to the following conditions:

a) The applicant shall make himself available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of

hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;

b) The applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

c) The applicant shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing

such facts to the Court or the Police Officer; and

d) The applicant shall not leave the territory of India without the prior permission of the Court.

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16. Any of the observations, made hereinabove, shall not be taken as an expression of opinion, on the merits of the case, as, these observations, are

confined, only, to the disposal of the present bail application.

17. It is made clear that respondent-State is at liberty to move appropriate application, in case, any of the bail conditions, is found to be violated, by the applicant.

18. Registry is directed to forward a soft copy of the bail order to the Superintendent of Model Central Jail, Kanda, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

19. In case, applicant is not released, within a period of seven days, from the date of grant of bail, the Superintendent of Model Central Jail, Kanda, is directed to inform this fact to the Secretary, DLSA, Shimla. The Superintendent of Model Central Jail, Kanda is further directed that if applicant fails to furnish the bail bonds, as per the order, passed by this Court, within a period of one month from today, then, the said fact be submitted to this Court.