

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P(M) No. 702 of 2014.

Date of decision: 27.6.2014.

Lashkari Ram

.....Petitioner.

Vs.

State of Himachal Pradesh

..... Respondent.

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

Whether approved for reporting? No

For the petitioner : Mr. Subhash Sharma, Advocate.

For the respondent : Ms. Meenakshi Sharma, Addl. A.G.
with Ms. Parul Negi, Dy. A.G. and Mr.
R.P.Singh, Asstt. A.G.

Sh. Naresh Kumar, ASI/IO, Police
Station, Bharari, Distt. Bilaspur, H.P.

Tarlok Singh Chauhan, Judge (Oral).

The petitioner has preferred this petition, under section 438 Cr.P.C., for grant of pre-arrest bail on the ground that petitioner has been falsely implicated on a frivolous complaint made by one Smt. Gyatri wife of Sachin Sharma. It is submitted that petitioner has retired as Subedar from the Indian Army in 1997 and thereafter settled at his native village.

2. The petitioner had three brothers, out of whom one Santosh Kumar has died and is survived by his two sons, the elder of whom has also died in April 2014. Said Sachin Sharma in fact is the only surviving son of late Santosh Kumar. Thus the relation of the

Whether the reporters of the local papers may be allowed to see the Judgment? Yes

petitioner with that of Sachin Sharma is that of uncle-nephew. The complainant is the wife of Sachin Sharma and is working as Nurse at Dharampur. A case under section 354, 451, 506 IPC has been registered against the petitioner vide FIR No. 61 of 2014 dated 9.6.2014 with the Police Station Bharari, Tehsil Ghumarwin, District Bilapur.

3. I have heard the learned counsel for the petitioner as also the learned Additional Advocate General and have gone through the status report as well as investigation record produced for the perusal by this court. From the record, it appears that relations between the complainant and the petitioner are far from cordial. It has come on record that petitioner at about 8.30 a.m. on 9.6.2014 itself had submitted a complaint to the police station on the basis of which it has been informed that a calendara, under sections 107/150 Cr.P.C. has been presented against the complainant and his family members before the Sub Divisional Magistrate. This FIR has been lodged subsequently. It may not be proper for this court to make any observation on the conduct of the complainant and other family members lest it prejudices the trial.

4. Once it is found that relations between the petitioner and the complainant's family are not cordial and there are disputes inter se between them, it can be expected that all sort of allegations can be leveled by any of the parties. The fact, nonetheless remains that no case for custodial interrogation is made out and even otherwise as per settled law the grant of bail is only to ensure and secure the presence of the accused. The petitioner is a retired Subedar and

permanent resident of District Bilaspur and I see no reason as to why he would jump the bail or in any manner hamper the progress of the investigation. Otherwise also, more stringent conditions can be imposed while granting bail and in case of any violation thereof, the State is always free to move for cancellation of the bail.

5. Accordingly, this is a fit case where the discretion for grant of bail to the petitioner ought to be exercised. Accordingly, the petitioner in the event of arrest in FIR No. 61 f 2014, dated 9.6.2014, registered at Police Station, Bharari, District Bilaspur under sections 451, 354, 506 IPC, shall be released on bail subject to his furnishing personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of Judicial Magistrate Ist Class, Ghumarwin, District Bilaspur, H.P. It is clarified that petitioner shall-

- (i) 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;
- (ii) not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
- (iii) 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; and
- (iv) not leave the territory of India without prior permission of the court.

The learned Judicial Magistrate, Ghumarwin is directed to comply with the directions issued by the High Court, vide communication No.HHC.VIG./Misc.Instructions/93-IV.7139 dated 18.03.2013.

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7. Any observation made hereinabove 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 hereinabove.

Copy dasti.

June 27, 2014.
(Hem)

(Tarlok Singh Chauhan),
Judge.