

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**Cr.M.P.(M) Nos.1703, 1704, 1705, 1706
and 1707 of 2015.**

Date of decision: 27.11.2015.

1. Cr.M.P.(M) No.1703 of 2015.

Bhagat RamPetitioner.

Versus

State of Himachal Pradesh Respondent.

2. Cr.M.P.(M) No.1704 of 2015.

Karam SinghPetitioner.

Versus

State of Himachal Pradesh Respondent.

3. Cr.M.P.(M) No.1705 of 2015.

Anup SinghPetitioner.

Versus

State of Himachal Pradesh Respondent.

4. Cr.M.P.(M) No.1706 of 2015.

Ajay KumarPetitioner.

Versus

State of Himachal Pradesh Respondent.

5. Cr.M.P.(M) No.1707 of 2015.

Pawan KumarPetitioner.

Versus

State of Himachal Pradesh Respondent.

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

Whether approved for reporting?¹ No

**For the Petitioner(s) : Mr.M.L.Sharma, Advocate, in all the
petitions.**

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

For the Respondent : Ms.Meenakshi Sharma, Additional Advocate General with Ms.Parul Negi, Deputy Advocate General.

SI/SHO Hans Raj, Police Station, Darlaghat, District Solan, present alongwith records.

Tarlok Singh Chauhan, Judge (Oral).

The petitioners have sought pre-arrest bail in case FIR No.70/2015, registered at Police Station, Darlaghat, District Solan, on 12.11.2015, under Sections 354, 323, 504, 509 and 149 IPC.

2. The respondents after having put to notice have produced the records of the investigation and have also filed the status report.

3. A perusal of the records of investigation reveals that the petitioners had parked their Bolero Jeep on the side of the road and were consuming liquor. As the complainant and her sister crossed by, the petitioners started whistling and also hurled abuses. Not only this, one of the petitioners, Pawan Kumar, caught hold of the complainant from her shoulder and tore her shirt and when the complainant tried to escape from his clutches, he twisted her finger and thereafter dragged the complainant two times, while rest of the accused kept on drinking and went on hurling abuses at the complainant and her sister. Because of the hue and cry raised by the complainant and her sister, the people of the area gathered there and on seeing them, all the petitioners fled away from the spot.

4. The essence of a woman's modesty is her sex. Shockingly, all the petitioners are residents of same area and instead of being protective have cast an evil eye upon the complainant and her sister. Instead of being humble and polite, the petitioners have chosen

to abuse and resort to vulgar gestures. Not only this, one of the petitioners, Pawan Kumar, has gone to the extent of tearing the clothes of the complainant.

5. With the social conditions prevailing in the society, the modesty of a woman has to be strongly defended and such offence cannot be treated as trivial. Therefore, allowing the anticipatory bail application, especially, of the petitioner Pawan Kumar, in such offence would virtually mean encouraging this type of crime and, therefore, his bail application bearing Cr.M.P.(M) No.1707 of 2015 is rejected.

6. Insofar as the remaining petitioners are concerned, their bail applications are allowed and they are ordered to be released on bail in FIR No.70/2015, registered at Police Station, Darlaghat, District Solan, on 12.11.2015, under Sections 354, 323, 504, 509 and 149 IPC. However, the bail is subject to the following conditions:-

- i) The petitioners shall furnish personal bonds in the sum of ₹ 20,000/- each with two sureties each of the like amount to the satisfaction of Judicial Magistrate First Class, Arki, District Solan, out of whom one of the surety shall be the father/ mother/ brother/ close relative of the petitioners.
- ii) The petitioners shall not get involved in any offence during the period of their bail.
- iii) The petitioners shall not until and otherwise ordered except with the permission of the learned Magistrate leave the territory of Himachal Pradesh.
- iv) They shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever.
- v) They shall not make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer.

- vi) The petitioners during the period of bail shall maintain good conduct and behaviour.
- vii) In case any of the above conditions is violated, the bail granted hereby is liable to be cancelled for which the Investigating Officer may move an application before this Court.

The learned Judicial Magistrate First Class, Arki, District Solan, 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.

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. The Registry is directed to place a copy of this judgment on the files of connected matters.

Petitions stand disposed of.

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November 27, 2015.
(krt)

(Tarlok Singh Chauhan),
Judge.