

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr.M.P.(M) No.893 of 2007**

**Decided on: December 31, 2007.**

---

***Ashok Kumar and another***

***...Petitioners.***

***VERSUS***

***State of Himachal Pradesh***

***....Respondent.***

---

***Coram***

***The Hon'ble Mr.Justice Kuldip Singh, Judge.***

***Whether approved for reporting?<sup>1</sup>No***

**For the Petitioners: Mr Ramakant Sharma, Advocate.**

**For the respondent: Mr.M.L.Chauhan, Addl.A.G.**

---

**Kuldip Singh, Judge (Oral)**

This is an application under Section 439 Cr.P.C. for releasing the petitioners on bail in F.I.R. No.130/2006 dated 7.8.2006 under Sections 397, 34 I.P.C., registered at Police Station, Ghumarwin, District, Bilaspur. Notice was issued to respondent on 13.12.2007 and learned Additional Advocate General has submitted the status report.

2. Heard and perused the record. It has been submitted on behalf of the petitioners that complainant Rajinder Kumar has appeared as PW-8 on 13.11.2007 in the trial Court and as per his statement, involvement of the petitioners in the case has not been established and, therefore, they are entitled to bail. It has further been submitted that complainant has stated that petitioners are not the persons who have committed the alleged offence. The petitioners

---

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

are young persons. On merits, no case has been made out against the petitioners and, therefore, they are entitled to bail. The petitioner No.1 earlier filed Cr.M.P.(M) No.564 of 2007 which was dismissed on 16.8.2007 by this Court.

3. The bail application of the petitioners has been opposed. It has been submitted that nearly 15 witnesses have already been examined in the case. The petitioner No.1 is involved in 30 cases. A list of such cases is filed with the status report. No doubt, in some cases he has been acquitted but many cases are still being tried. The petitioner No.2 is also involved in some other cases, as stated by learned Additional Advocate General. The petitioners have heavily relied on the statement of PW-8 Rajinder Kumar – complainant for releasing them on bail. PW-8 was declared hostile. He has admitted his signatures on F.I.R. Ext.PW-8/A. In cross examination, he has supported the contents of F.I.R. on many particulars. In examination in chief, he has stated that on 7.8.2006 at about 8.30 A.M. 3/4 persons came to him and asked him the fare of Ghumarwin but accused persons present in the Court are not those persons. The petitioners have not placed on record the other evidence which has been led in the case. I am not observing on the merits of the statement of PW-8, a copy of which has been placed on record. Simply on the basis of statement of PW-8 but in absence of other evidence, which has been led in the case, it is not possible to record prima facie finding that the petitioners are entitled to bail. The bail application of petitioner No.1 was earlier dismissed by this Court on 16.8.2007. The petitioner No.1 is involved in 30 cases and

petitioner No.2 is also involved in some other cases though such details are not given. The prosecution has already examined about 15 witnesses in the case as stated by learned Additional Advocate General. Therefore, keeping in view the facts and circumstances of the case, the petitioners are not entitled to bail. Accordingly, the application is dismissed.

4. The observations made in this order shall not be construed as expression of opinion on the merits of the statement of PW-8 Rajinder Kumar, a copy of which has been placed on record.

***CMP No.624 of 2007:***

Infructuous.

***December 31, 2007***  
(soni)

***( Kuldip Singh ), J.***