

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.(M) No. 786 of 2011.

Date of decision: 30.09.2011.

Ramesh Chand.

.....Petitioner.

Versus

State of H.P.

.....Respondent.

Coram

The Hon'ble Mr. Justice Kuldeep Singh, Judge.

Whether approved for reporting ?¹ No

For the Petitioner : Mr. Vinay Kuthiala, Advocate.

For the Respondent : Ms. Ruma Kaushik, Addl. A.G.

Kuldeep Singh , Judge(Oral).

This is an application under Section 439 Cr.P.C. for releasing the petitioner on bail in FIR No. 122/2006, registered on 01.09.2006 under Sections 323, 336 IPC at Police Station, Karsog. The status report filed and the same has been perused.

2. It has been stated that FIR No. 122/2006 was registered on 01.09.2006 under Sections 323 , 336 IPC at Police Station Karsog on the basis of alleged incident dated 31.08.2006. The petitioner was declared proclaimed offender and he was arrested and produced before learned JMIC, Karsog. The petitioner filed an application under Section 437 Cr.P.C. for releasing him on bail which has been dismissed on 09.09.2011. The application under Section 439 Cr.P.C. for granting bail to the petitioner has been dismissed by learned Sessions Judge, Mandi, on 23.09.2011.

¹ Whether reporters of Local Papers may be allowed to see the Judgment ? Yes

3. The learned Magistrate has framed the charge against the petitioner for offences punishable under Sections 323, 336 IPC and the petitioner has been remanded to judicial custody up to 28.09.2011 . The case has been listed for prosecution evidence on 19.10.2011.

4. It has been stated that petitioner never wished to abscond. No summons were ever issued in the name of the petitioner nor the petitioner had the knowledge of lodging of FIR. The petitioner is above 55 years and has four daughters, two sons and wife, besides grandchildren. The petitioner was not properly served as the summons were in the name of other person. The petitioner did not abscond from his native place. The prayer has been made for releasing the petitioner on bail.

5. The bail application has been opposed that petitioner is a proclaimed offender. He is on judicial remand. In case, he is released on bail, there is every likelihood that he will flee away from the justice. He may also influence the prosecution witnesses.

6. I have heard both the sides and perused the police file. The petitioner is facing trial for offences punishable under Sections 323, 336 IPC in the Court of learned Judicial Magistrate, Karsog. It has been submitted on behalf of the petitioner that he was not properly served in the case, therefore, he could not appear in the Court below. The presence of the petitioner can be secured by directing him to furnish sureties residing within the jurisdiction of the trial Court. The allegation of influencing the prosecution witnesses has not been supported by corroborative material. In the facts and circumstances of the case, the petitioner has made out a case for grant of bail.

7. Accordingly, application is allowed. The petitioner is

ordered to be released on bail in FIR No.122/2006, registered on 01.09.2006 under Sections 323, 336 IPC at Police Station, Karsog on his furnishing personal bond in the sum of ₹ 20,000/- with two sureties each of the like amount residing within the jurisdiction of the trial Court and to the satisfaction of the trial Court.

8. The observations made in the judgment are for the disposal of the bail application and shall not be construed as an expression of opinion on the merits of the case.

Cr.M.P. No. 752 of 2011.

9. Disposed of in view of disposal of the main petition.

Copy 'dasti'.

(Kuldip Singh),
Judge.

September 30, 2011.
(Krt)