

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.(M) No. 847 of 2011.

Date of decision: 31.10.2011.

---

Rajiv Kumar & Ors.

.....Petitioners.

Versus

State of H.P.

.....Respondent.

---

Coram

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

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

For the Petitioners : Mr. N.K.Thakur, Advocate.

For the Respondent : Ms. Ruma Kaushik, Additional Advocate General.

---

**Kuldip Singh , Judge( Oral).**

This is an application under Section 439 Cr.P.C. for releasing the petitioners on bail in FIR No.203/2011 dated 17.08.2011, registered at Police Station Jawali, under Sections 325, 307, 323, 34 IPC. The status report filed and the same has been perused.

2. It has been stated that the petitioners were arrested on 19.09.2011 in the above case and since then they are in custody. The Investigation in the case is almost over, no recovery is to be made from the petitioners. The petitioners have been falsely implicated in the case, they are innocent. The petitioners are ready to furnish bail bonds in accordance with the directions of the Court. The petitioners are students of I.T.I., Shahpur and on account of their arrest, their I.T.I. Course has been adversely affected. The continuing detention of the petitioners is not necessary in the facts and circumstances of the case. The petitioners

---

<sup>1</sup> Whether reporters of Local Papers may be allowed to see the Judgment ? Yes

have prayed for grant of bail.

3. The bail application has been opposed on the basis of the status report. It has been stated that statement of injured Ravi Kumar was recorded on 17.08.2011 under Section 154 Cr.P.C. He has stated that he has been working as a driver on tipper of 'Guleria Crusher'. On 19.07.2011 at about 10.30 p.m., he was returning home from 'Guleria Crusher', vehicle Sumo No. HP-39-0206 came which was being driven by Babu Ram, who stopped the vehicle. He took lift and proceeded towards his home. At place near Tutbali, he noticed one tractor standing in the middle of the road, Vikram Singh was the driver of the tractor and was standing nearby. One more tractor came from Chelian side which was being driven by Narender Singh, who stopped the tractor and came to Vikram Singh. Babu Ram asked for clearing the road, on this Vikram Singh said that road does not belong to his father and on this they started quarrelling. Vikram Singh and Narender Singh pulled him from the vehicle, took out shovel and gave him beatings, he sustained injuries on his head, nose and other parts of the body and became unconscious. He earlier could not make the statement and only after some recovery he has given the statement to the police. On this case was registered.

4. The complainant gave his supplementary statement on 20.08.2011 and has stated that in his statement dated 17.08.2011, he could not give the full particulars of the persons, who gave beatings to him on 19.09.2011. He named the petitioners in his supplementary statement for beating him with kicks and fist blows. It has been stated that the petitioners were arrested on 20.09.2011 and since then they are

in custody. The tractors have been taken into possession, so also shovel. It has been stated that the challan has been prepared, but it is under scrutiny. The bail applications of the petitioners have been rejected by learned Additional Sessions Judge, Fast Track Court, Dharmshala on 11.10.2011. It has been stated that all the accused are in judicial lock up. It has been stated that the injured has received serious injuries which could have proved fatal. The prayer has been made for rejection of the bail application.

5. I have considered rival contentions of the learned counsel for the parties and have also perused the police file. It has been stated that challan has been prepared and it is under scrutiny. In other words, the investigation is complete. The recovery has also been effected. The occurrence took place on 19.07.2011. The statement of injured under Section 154 Cr.P.C. was recorded on 17.08.2011. It has not been stated in the status report when the injured was discharged from the hospital. It has, however, been stated that injured was called on telephone on 17.08.2011 in the hospital when doctor gave final opinion and on 17.08.2011 the statement under Section 154 Cr.P.C. of the injured was recorded. It means the injured was discharged from the hospital much before 17.08.2011 and he was in a position to move out. The injured in his statement under Section 154 Cr.P.C. has not named the petitioners. In his supplementary statement dated 20.08.2011 the injured has named the petitioners, but even in the supplementary statement, the role attributed to the petitioners is different from the role attributed to the other accused. The petitioners are students and they are undergoing I.T.I. Course. The trial of the case will take some time. In the facts and

circumstances of the case, no purpose will be served for detaining the petitioners for indefinite period. In these circumstances, the petitioners have made out a case for grant of bail.

6. Accordingly, application is allowed. The petitioners are ordered to be released on bail in FIR No.203/2011 dated 17.08.2011, registered at Police Station Jawali, under Sections 325, 307, 323, 34 IPC on their furnishing personal bonds in the sum of ₹ 20,000/- each with one surety each of the like amount to the satisfaction of the Judicial Magistrate, Jawali with the conditions that the petitioners shall not hamper the investigation and tamper with the prosecution evidence in any manner.

7. 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.

Copy 'dasti'.

**( Kuldip Singh ),**  
**Judge.**

**October 31, 2011.**  
**(Krt)**