

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MP(M) No.11213 of 2013

Date of Decision: 31st July, 2013

Ram Nath Petitioner.

Versus

State of H.P. Respondent.

Coram

Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting¹?

For the Petitioner: Mr. T. S. Chauhan, Advocate.

For the Respondent: Mr. H.K.S. Thakur, Addl. A.G. with
ASI Kundan Singh, P.S. Parwanoo.

SURINDER SINGH, J (oral).

This order will dispose of the instant application for bail, preferred under Section 439 of the Code of Criminal Procedure.

2. Report filed. Heard.

3. Precisely, the case of the prosecution is that on 16.5.2013 Balwant Singh, husband of the complainant Tara Devi had gone to irrigate tomato crop in his field. The accused/petitioner had also tomato crop in the adjacent land. While returning around 8.30 p.m., Tara Devi got attracted by the cries of her husband. She went to her court yard and saw that accused/petitioner Ram Nath was giving beating to her husband and attacked with a Darat, causing various injuries on his person. The sharp edged injury on his head was grievous. The complainant called her son Krishan Kumar from the village and took injured to hospital.

4. The matter was reported to the police. The injured initially remained hospitalised in ESI, Parwanoo, thereafter referred to PGI

¹Whether reporters of local papers may be allowed to see the judgment?

Chandigarh. As per report of the doctor given on the medical certificate, the injured had sustained five injuries with sharp edged weapon and others with the blunt weapon, but injury No.1 was depressed fracture frontal bone of left side, which according to the doctor, was dangerous to life. As such, Sections 307 and 324 of the Indian Penal Code were added.

5. The accused was arrested. The weapon of offence had been taken into possession. FSL report is still awaited, however, the challan stands presented in the Court for trial of the accused on 26.7.2013. During investigation of this case, it came to light that the accused raised dispute to take his turn for irrigating his tomato crop.

6. Learned Addl. Advocate General objected to the bail on the ground that the accused is nephew of the injured and being a member of the same family, should not have been attempted to commit the heinous offence. It is further submitted that there is every likelihood of tampering the prosecution case.

7. According to the Investigating Officer, the petitioner herein has no criminal record.

8. Keeping in view the entire facts of the case and also the point of dispute, vis-à-vis the fact that the petitioner has roots in the society and there is no allegation of absconding, therefore, the petitioner can be enlarged on bail on suitable conditions. Therefore, it is ordered that he be released on bail, on his furnishing bail bonds in the sum of ₹50,000/- with one surety of the like amount to the satisfaction of the Chief Judicial Magistrate, Solan. This bail shall be subject to the following conditions:

- i) that the petitioner shall join the investigation of this case as and when required to do so and shall attend the Court, unless his presence is exempted;
- ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case so as to dissuade him from disclosing such facts to the Court or the police;
- iii) the petitioner shall not indulge in any criminal activity and keep harmony with the family of the injured and
- iv) in case the petitioner shall cause any trouble to the complainant party henceforth or he commit breach of any of the conditions aforesaid, liberty of bail shall be cancelled.

9. Any observation made hereinabove is only for the purpose of deciding the present petition and it shall not have any bearing on the merits of the main case.

10. A copy of this order be sent to the learned Chief Judicial Magistrate, Solan, for information and necessary action at his end.

In view of the above, the petition is disposed of.

Copy **dasti**.

(Surinder Singh)
Judge.

31st July, 2013
(rana)