

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. MP (M) Nos. 11231, 11232, 11233 of 2013.

Decided on: 31st July, 2013

1. Cr. MP (M) No. 11231 of 2013.

Raj Kumar SharmaPetitioner.

Versus

State of H.P.Respondent.

2. Cr. MP (M) No. 11232 of 2013.

Gian ChandPetitioner.

Versus

State of H.P.Respondent.

3. Cr. MP (M) No. 11233 of 2013.

Gian SinghPetitioner.

Versus

State of H.P.Respondent.

Coram

The Hon'ble Mr. Justice Dharam Chand Chaudhary, Judge.

Whether approved for reporting?¹No.

For the Petitioner(s) : Mr. Ramakant Sharma, Advocate.

For the Respondent : Mr. D.S. Nainta and Mr. Virender Verma, Addl. A.Gs.

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

Dharam Chand Chaudhary, J. (oral).

This order shall dispose of all the three applications arising out of the same FIR.

2. Accused-petitioners apprehend their arrest in connection with FIR No.4 of 2013, registered in Police Station, Barotiwala, District Solan, under Sections 420, 465, 467, 468 and 471 of Indian Penal Code on 8th January, 2013.

3. The status report placed on record by learned Additional Advocate General and the record produced by the I.O. reveal that the accused-petitioner Raj Kumar Sharma in bail application No.11231 of 2013 is a Document Writer at Nalagarh. He allegedly forged the General Power of Attorney dated 16.3.1995 whereby one Guru Balbir Singh already appointed one R.K. Rewari (co-accused in this case) as General Power of Attorney and authorized said Shri R.K. Rewari to deal with his land entered in Khewat No.278/372, Khasra No.131, measuring 13 Bigha, 1 Biswa, situated in Village Bhatoli Kalan, Tehsil Nalagarh to the extent of 1/6th Share. The execution of General Power of Attorney allegedly was witnessed by Gian Chand and Gian Singh, the accused-petitioners in bail application Nos. 11232 & 11233 of 2013, respectively.

4. The allegations against the accused-petitioners are that they all forged the signature of Guru Balbir Singh on the General Power of Attorney and thereby fraudulently managed to dispose of the land belonging to said Guru Balbir Singh to M/s Mahabir Spinning Mills Ltd., Baddi, Tehsil Nalagarh, of which the so called General Power of Attorney and also co-accused Sh. R.K. Rewari was General Manager.

5. The land now admittedly is in the possession of M/s Mahabir Spinning Mills Ltd. The FIR has been registered on a complaint made by Rattan Singh Banga, who also claims himself to be the General Power of Attorney of Guru Balbir Singh. The investigation in the case is in progress. There is no complaint of whatsoever nature that the accused-petitioners either were not available for the purpose of interrogation when called for the purpose or they indulged in tampering of the evidence collected by the investigating agency or hampered the investigation of the case.

6. True it is that the comparison of the signatures on the disputed General Power of Attorney with admitted signatures of Guru Balbir Singh in the Laboratory reveals that the same differs, however, without making any observations at this stage on merits qua this aspect of the matter, suffice would it to say that the disputed General Power of Attorney

was signed in the year 1995 whereas the admitted signatures of said Guru Balbir Singh were obtained for comparison in the year 2013. Any how, it is for the trial court to decide this controversy at an appropriate stage.

7. However, so far as the entitlement of the accused petitioners to be released on bail in the event of their arrest in this case is concerned, they are entitled to the grant of such relief claimed in these petitions for the reasons that they belong to district Solan and as such are permanent resident of this place. They can also be said to have roots in the society. This Court also finds no reason that they will abscond and jump over the bail or will not be available for the purpose of interrogation and ultimately at the time of trial, if the Challan is filed in the Court. Being so, all these applications succeed and the same are allowed. It is directed that in the event of the arrest of the accused-petitioners in connection with FIR No.4/13, they shall be released on bail, subject to their furnishing personal bond in the sum of ₹50,000/- each with one surety each in the like amount to the satisfaction of the I.O./arresting Police Officer, of course subject to the following conditions:-

- i) They shall make themselves available for interrogation as and when required and shall cooperate with the investigating Officer to

conduct the investigation in a manner so as to take it to its logical end;

- ii) They shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
- iii) They shall not make any inducement, threat or promises 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; and
- iv) They shall not leave the territory of India without the prior permission of the Court.

8. It is clarified that if the petitioners misuse their liberty or violate any of the conditions imposed upon them; the Investigating Agency shall be free to move this Court for cancellation of the bail.

9. The observations hereinabove, however, shall remain confined to the disposal of these petitions and shall have no bearing on the merits of the case.

All the applications stand disposed of accordingly.

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July 31, 2013
(ps)

(Dharam Chand Chaudhary),
Judge.