

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

Cr.MP(M) No.11838/2013

Decided on : December 31, 2013

Duni Chand ...Petitioner
Versus
State of Himachal Pradesh ...Respondent

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting? No

For the Petitioner : Mr. Vivek Singh Thakur, Advocate.

For the Respondent : Mr. R.S. Verma, Additional Advocate General.

Sanjay Karol, J. (oral)

S.I. Jagat Singh, Police Station, Ghumarwin, District Bilaspur, H.P. is present alongwith record. Record perused and returned. Status report taken on record.

2. In this application filed under Section 439 of the Criminal Procedure Code, 1973, petitioner Duni Chand, who was arrested on 18.10.2013 and since then is in judicial custody, is seeking regular bail in connection with F.I.R. No.213/13, dated 18.10.2013, registered at Police Station, Ghumarwin, District Bilaspur, H.P., under the provisions of Sections 307, 323, 325, 452, 506 of the Indian Penal Code.

3. It is the allegation of prosecution that petitioner, with an intent of committing murder, gave beatings to complainant Gajan Singh. Matter was reported to the police. Injured was administered medical treatment and as per Doctor, injuries were grievous in nature.

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

4. According to learned counsel for the petitioner, Gajan Singh and his wife who are petitioner's neighbours habitually used to quarrel with each other. On 16.10.2013, Gajan Singh quarreled with his wife and also gave her beatings. Petitioner only intervened. He is innocent and has been falsely implicated in the present case.

5. Noticeably, the alleged incident took place on 16.10.2013 and matter was reported to the police only on 18.10.2013, when F.I.R. was registered. Petitioner allegedly had an axe in his hand when he gave beatings. Had he intended to commit murder, he would have given a blow with an axe and not kick blows.

6. Having heard learned counsel for the parties, perused the record as also the ratio of law laid down by the apex Court in *Siddharam Satlingappa Mhetre Versus State of Maharashtra and others*, (2011) 1 SCC 694; and *Prasanta Kumar Sarkar versus Ashis Chatterjee and another*, (2010) 14 SCC 496, I am of the considered view that present petitioner has made out a case for grant of bail.

7. According to learned Additional Advocate General, Investigation is complete and Challan is likely to be filed in near future. Petitioner's custodial interrogation is no longer required. Hence, *prima facie*, I am of the considered view that petitioner has made out a case for grant of bail as there is no apprehension of the accused-petitioner, either tampering with the record or intimidating/threatening the witnesses or in any manner impede the course of justice.

8. Keeping in view the aforesaid attending circumstances petition is allowed and petitioner is ordered to be released on bail on his furnishing personal bond in the sum of ₹50,000/- (rupees twenty five thousand) with one surety in the like amount to the satisfaction of the learned Chief Judicial Magistrate, Bilaspur, H.P. It is clarified that petitioner shall not tamper with the prosecution evidence, try to influence the witnesses or in any manner conduct himself as to disentitle him from the discretionary power. Also, he shall always make himself available during trial. Learned Chief Judicial Magistrate is directed to comply with the directions issued by the High Court, vide letter No.HHCVIG/Misc. Instructions/93-IV-7139, dated 18.3.2013.

9. Any observation made herein above shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the matter uninfluenced by any observation made herein above.

With the aforesaid observations, present petition stands disposed of.

Copy Dasti.

December 31, 2013 (ks)

(Sanjay Karol), J.