

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**Cr. MP (M) No. 126 of 2014.**

**Decided on: 30<sup>th</sup> January, 2014**

---

Bittu Kumar

**.....Petitioner.**

Versus

State of H.P.

**.....Respondent.**

---

*Coram*

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

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

**For the petitioner : Mr. N.S. Chandel, Advocate.**

**For the Respondent : Mr. Ravinder Thakur, Additional  
Advocate General with Mr. Vikram  
Thakur.**

---

**Dharam Chand Chaudhary, J. (oral).**

Learned Additional Advocate General has placed on record the status report and Shri Mahender Lal, ASI, Police Station, Sadar, Shimla, has produced the record.

2. The petitioner is a contractor. Being the highest bidder, the Municipal Corporation's parking, on the cart road below High Court of Himachal Pradesh, has been tendered to him. He has been issued the receipt books by the Municipal Corporation and the rates to be charged by him in respect of the parking of different categories of the vehicles are also prescribed.

3. The allegations against him in a nut shell are that on 8<sup>th</sup> December 2013; when the Deputy Mayor, Municipal

---

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

Corporation, Shimla has conducted surprise checking of the parking, found the petitioner charging exorbitantly, over and above the rates prescribed, from the persons utilizing the facility of parking. Not only this, but he was found to have printed his own receipt books and issuing the receipts over and above the prescribed rates. It is on the complaint lodged by Municipal Corporation, Shimla, FIR No.246/13, dated 30.12.2013, under Sections 416, 420, 467, 468 & 471 IPC came to be registered against him in police station, Sadar, Shimla. On the next day of the registration of FIR i.e. 31.12.2013, the accused-petitioner has been arrested in this case and presently confined in judicial custody. The investigation is in progress as the hand writing of Vijay Kumar employed by him in the parking is left to be obtained and the statement of the persons from whom he has collected the charges over and above the prescribed rates are also to be associated in the investigation.

4. Having gone through the record and also taking into consideration the rival contentions, true it is that the offence, the accused-petitioner has committed, is not only grievous in nature, but heinous also, however, whether he has committed the offence in the manner as alleged in the complaint is yet to be determined during the course of trial after holding full trial by the competent Court. Keeping in view the settled legal principle that an offender has to be

believed innocent unless and until otherwise held guilty after holding full trial coupled with the factum that he belongs to District Shimla and as such is permanent resident of Himachal Pradesh and also that right from the very first day of his arrest, he was not required for the purpose of custodial interrogation and rather from time to time is being remanded in judicial custody, the present is a fit case where the accused deserves to be admitted on bail. I, therefore, allow this application and order that the accused-petitioner, who has been arrested in connection with FIR No.246/13 and presently confined in judicial custody, shall be released on bail, subject to his furnishing personal bond in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of learned Chief Judicial Magistrate/or any other Judicial Magistrate 1<sup>st</sup> Class, Shimla. He shall further abide by the following conditions:-

- a. He shall make herself 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;
- b. He shall regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;

- c. He shall not tamper with the prosecution evidence nor make any inducement, threat or promise 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 Investigating Officer;
- d. He shall not leave the territory of India without the prior permission of the Court.

5. It is clarified that if the petitioner misuses his liberty or violates any of the conditions imposed upon him; the Investigating Agency shall be free to move this Court for cancellation of the bail.

6. The observations hereinabove shall remain confined to the disposal of this petition and have no bearing on the merits of the case. The application stands disposed of.

Copy Dasti.

January 30, 2014  
(ps)

(Dharam Chand Chaudhary),  
Judge.