

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.M.P(M) Nos. 114 & 115 of 2015

Decided on: 30th January, 2015

Cr.M.P(M) No. 114 of 2015

Rahul SharmaPetitioner

Versus

State of H.P. ...Respondent.

Cr.M.P(M) No. 115 of 2015

Vivek RattanPetitioner

Versus

State of H.P. ...Respondent.

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

Whether approved for reporting?¹ No.

For the petitioners: Mr. N.S. Chandel, Advocate.

**For the respondent: Mr. Virender Verma, Additional
Advocate General.**

Dharam Chand Chaudhary, Judge. (Oral)

This petition and Cr.M.P(M) No. 115 of 2015 hereinabove having arisen out of the same FIR are being taken up together for consideration and orders.

2. Although, both petitions have been filed during the course of the day and taken up on motion in this regard made by learned counsel for the petitioner, yet, Mr. Virender

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

Verma, learned Additional Advocate General appears and accepts service of notice on behalf of the respondent-State and submits that the Investigating Officer, present yesterday along with the record he produced during the course of hearing in Cr.M.P(M) No. 1460/2014 is present in the Court today also along with the record and that the status report is also ready for being placed on the record.

3. Learned Additional Advocate General has, therefore, placed on record the status report and the Investigating Officer ASI Yash Pal, Police Station, Dehra, District Kangra has produced the record.

4. Petitioners are co-accused in FIR No. 165/14 registered against them and their co-accused Amit Sharma and his wife (name withheld) and one Raman Rattan under Sections 302, 201 read with Section 34 of the Indian Penal Code in Police Station, Dehra, District, Kangra.

5. Perusal of the status report and the record reveals that the accused-petitioners have been booked in the case with the allegations that on 23.09.2014 around 9.15 am, when their co-accused Amit Sharma unlocked the door of a room of the his house, they found one Dev Raj (since dead), having come out and hurriedly ran away,

however, they along with their co-accused caught hold him and also administered the beatings. Deceased Dev Raj succumbed to the injuries he received in the occurrence and died in the hospital while under treatment. The record further reveals that the deceased had relations with the wife of principal accused Amit Sharma. She allegedly hails from Baijnath area where the deceased was running a barber shop and before her marriage with accused Amit Sharma, she was also working in a beauty parlour there. The deceased and the wife of accused had, therefore, old intimacy. She used to call the deceased to the place of her in-laws at village Gangot, Tehsil Dehra, District Kangra even after her marriage also. On the day of occurrence also, he was called by the wife of principal accused Amit Sharma. She made the deceased to hide in the room by locking the same from outside. Her husband accused Amit Sharma having felt the presence of someone in the room got the door unlocked. The deceased, who was inside the room pushed aside the said accused and ran away. He, however, was caught hold by principal accused Amit Sharma with the help of accused-petitioners and was administered beatings,

as a result thereof he died in the hospital while under treatment.

6. The defence of the accused persons, as emerges from the investigation conducted at this stage, is that the deceased was not administered beatings but he fell down from *Dhank* while running in order to save himself from the clutches of the accused persons. On account of having fallen down, he received injuries and subsequently died in the hospital.

7. The investigation in the case is complete as the challan stands filed in the Court. The committal proceedings though are at initial stage, however, in progress, as the case is now stated to be listed on 09.02.2015 for supplying copies of charge sheet to the accused persons.

8. The investigation conducted prima-facie reveals that the cause of death of deceased Dev Raj was his relations with the wife of principal accused Amit Sharma. As per the record available, there cannot be said to be any controversy so as to presence of the deceased in one of the rooms of the house where, he was lying locked. Whether he had relations with the wife of accused Amit Sharma or he

was locked inside the room by her, are the facts, which need evidence for its proof and the same can only be produced at an appropriate stage in the trial in the event of the charge against the accused-petitioners and their co-accused is framed. At this stage, even if it is believed that he was administered beatings by the accused party, prima-facie, it so happened on account of sudden provocation, because finding the deceased lying locked in the room obviously resulted in suspicion in the mind of accused Amit Sharma qua relations of his wife with the deceased and ultimately in sudden provocation which led in administering beatings by him to the deceased with the help of accused-petitioners. The possibility of the deceased having fallen while running away to save his life cannot also be ruled-out because as per the post-mortem report available on record, only one injury could be detected that too on the middle region of temporal bone, which normally can even be caused in a case of fall also. The accused-petitioners have been arrested on the day of the registration of the case itself. They presently are in judicial custody. Nothing has been brought to the notice of this Court that they are influential persons or that in the event of admitted on bail,

they are likely to tamper with the prosecution evidence and hamper the investigation of the case.

9. Therefore, without lamenting much on the merits of the case suffice would it to say that in the given facts and circumstances and the evidence collected by the investigating agency, the present is a fit case where further detention of the accused-petitioners in judicial custody would be unwarranted.

10. This application is, therefore, allowed. Consequently, the accused-petitioners who have been arrested in connection with FIR No. 165/14 registered against him in Police Station, Dehra, District Kangra are ordered to be released on bail subject to their furnishing personal bond in the sum of ₹50,000/-(rupees fifty thousand) each with one surety each in the like amount to the satisfaction of learned Addl. Chief Judicial Magistrate/any other Judicial Magistrate at Dehra, District, Kangra. The accused-petitioners shall further abide by the following conditions:

that they shall:-

- (a) regularly attend the trial Court on each and every hearing if prevented by any reason to do

so, seek exemption from appearance by filing appropriate application;

- (b) not temper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever.
- (c) not 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 Police Officer.
- (d) not leave the territory of India without the prior permission of the Court.

11. 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.

12. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of this petition alone. Both the petitions stand disposed of.

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January 30, 2015
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(Dharam Chand Chaudhary)
Judge