

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Cr.M.P(M) Nos. 1725 & 1726 of 2015

Decided on : 30.11.2015

Cr.M.P(M) No. 1725 of 2015

Baljinder Singh

.....Petitioner.

Versus

State of Himachal Pradesh

....Respondent.

Cr.M.P(M) No. 1726 of 2015

Baljit Singh

...Petitioner.

Versus

State of Himachal Pradesh

....Respondent.

Coram:

The Hon'ble Mr. Justice Sureshwar Thakur, Judge.

Whether approved for reporting?¹

For the Petitioner(s):

Mr. Satyan Vaidya, Sr. Advocate with
Mr. Vivek Sharma, Advocate.

For the Respondent:

Mr. Vivek Singh Attri, Deputy
Advocate General.

Sureshwar Thakur, J (oral)

Both these petitions arise out of a common FIR, hence are liable to be disposed of by a common order.

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

...2...

2. The instant petitions have been instituted by the bail petitioners under Section 439 Cr.P.C, for theirs being released from judicial custody wherein they are presently lodged, for theirs having allegedly committed offences punishable under Sections 307, 147, 148, 149, 324, 341, 120-B IPC and Sections 25, 29, 30,-54-59 Arms Act, recorded in case FIR No. 55/15 of 20.6.2015 registered at P.S Padhar, District Mandi, H.P.

2. The Investigating Officer has filed a detailed status report.

3. The bail petitioners alongwith co-accused are employees of a private contractor at IIT Kamand. The reported incident imputing therein an inculpatory role to bail petitioner Baljinder Singh is of his having perpetrated an alleged assault upon the victim with his allegedly wielding a sword. At the relevant time he was accompanied by the other co-accused. A perusal of the MLC prepared qua the victim omitting to disclose qua any of the victim/victims of the offence having received any injuries in portrayal of the bail petitioner having delivered sword blows allegedly wielded by him on his/their respective persons, constrains an inference therefrom of the bail petitioner having merely brandished a sword which he allegedly

...3...

wielded, whose recovery stands effectuated by the investigating officer at the instance of the bail petitioner during his custodial interrogation. Obviously the further inference therefrom is of his having not delivered any blow with it on the persons of the victim/victims. The further fact of the injuries occurring on the person of the victim being a sequel to a gun shot fired at him by co-accused Gurvinder Singh is also a predominant fact which obviously negates the role of the bail petitioner in its perpetration upon the victim aforesaid. Moreover the gun shot injury alone stands opined by the Doctor who subjected the victim of the offence to medical examination to be dangerous to life. Apart therefrom the fact of the Investigating Officer having recited in the status report of the victim of the offence having recuperated from the injuries received by him in sequel to a gun shot having stood fired at him by co-accused aforesaid, obviously constrains this court to accord the facility of bail to the bail applicant. In so far as bail petitioner Baljit Singh is concerned the inculpatory role attributed to him is not of his wielding any weapon of offence at the relevant time rather the only role attributed to him is of his conspiring with principal accused. Given the minimality of the

...4...

inculpatory role ascribed to the bail petitioner Baljeet Singh does constrain this court to grant the facility of bail to him.

4. The learned Deputy Advocate General submits at this stage that given the pendency of another criminal case against the bail petitioner Baljinder Singh besides in the face of repeated and successive indulgence of the bail petitioner aforesaid in criminal activities, the according of facility of bail in his favour, may not be appropriate as there is every likelihood of his influencing the prosecution witnesses in other cases pending against him as also of his re-indulging in commission of offences.

5. Even though the factum of repeated and successive indulgence of bail petitioner Baljinder Singh in criminal activities besides the factum of criminal cases pending against him is a necessary factor to be borne in mind when according or refusing the facility of bail to him. However, in view of the mandate enshrined in ***Maulana Mohammed Amir Rashadi vs. State of Uttar Pradesh and another (2012) 2 SCC 382***, wherein it has been enshrined that strict/stringent conditions can be imposed by this Court to obviate the factum of the bail petitioner fleeing from justice or influencing witnesses. The imposition of stringent conditions by this Court would also

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mitigate as well as allay the apprehension of the State qua given his previous repeated indulgence in criminal activities he in case is granted bail would abuse his bail rather would re-indulge in criminal activities. Consequently, this Court to allay the apprehension of the learned Deputy Advocate General of there being every likelihood of his influencing the prosecution witnesses as well as of his re-indulging in criminal activities, proceeds to afford the facility of the bail to the bail petitioner subject to the hereinafter extracted conditions. If any condition hereafter is infringed, it shall facilitate the respondent-State to move this Court for cancellation of bail.

6. It is further contended before this court by the learned Deputy Advocate General that since the bail petitioners are not permanent residents of Himachal Pradesh, rather are permanent residents of Punjab and own property in the latter State, as such, it would not be possible to procure their presence at the time of theirs being subjected to trial before the criminal Court of competent jurisdiction. However, the aforesaid apprehension of the learned Deputy Advocate General can be allayed, by this Court by its imposing a condition upon the bail petitioners of theirs besides furnishing a personal bond each in

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the sum of Rs.2,00,000/- (two lacs) theirs also furnishing two local sureties each in the like amount to the satisfaction of the Judicial Magistrate, 1st Class, Mandi. In view of above, the petitions are allowed and the bail petitioners are ordered to released on bail, subject to the following conditions:-:

1. *That they shall furnish personal bond in the sum of Rs.2,00,000/ (two lacs)- alongwith two local sureties in the like amount, to the satisfaction of Judicial Magistrate, 1st Class, Mandi.*
2. *That they shall join the investigation, as and when required by the Investigating agency.*
3. *That they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Police.*
4. *That they shall not leave India without the prior permission of the Court.*
5. *That they shall deposit their passports, if any, with the Police Station, concerned.*
6. *That in case of violation of any of the conditions, the bail granted to the petitioners shall be forfeited and they shall be liable to be taken into custody.*

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6. 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.

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30th November, 2015
(priti)

(Sureshwar Thakur),
Judge.