

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**Cr.MP(M) No. 488 of 2021
Reserved on: 25th May, 2021.
Date of Decision: 31st May, 2021.**

Vikul

...Petitioner.

Versus

State of H.P.

...Respondent.

Coram:

The Hon'ble Mr. Justice Anoop Chitkara, Judge.

Whether approved for reporting?¹ NO

For the petitioner: Mr. Rajiv Rai, Advocate.

For the respondent: Mr. Nand Lal Thakur, Addl. Advocate General.

THROUGH VIDEO CONFERENCE

FIR No.	Dated	Police Station	Sections
56/19	29.03.2019	Joginder Nagar, District Mandi	302, 201, 109, 111, 34 IPC

Anoop Chitkara, Judge.

The petitioner, who is incarcerated upon his arrest, for committing murder, has come up before this Court under Section 439 of CrPC, seeking regular bail.

2. Earlier, the petitioner had filed the following bail petitions:

- (a) Cr.MP(M) No. 1457 of 2019, dismissed on 19.08.2019;
- (b) Cr.MP(M) No. 1007 of 2020, dismissed on 23.12.2020.

3. Search of website of this Court discloses that the co-accused had also filed the following bail petitions before this Court:

- i) Cr.MP(M) Nos. 1349, 1365, 1366, 2071, 2072 of 2019, 432, 903, 2080 and 2276 of 2020.

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

4. In Para 10 of the bail application, the petitioner declares having no criminal history. The status report also does not mention any criminal past of the accused.

5. Briefly, the allegations against the petitioner are that on 29.3.2019, complainant, father of the deceased, made a statement to the police under Section 154 Cr.P.C. to the effect that his son, who is mentally retarded, used to wander near the place of his residence and mostly used to visit the 'Magru Mahadev Shiv Sthan'. There is a Hermitage and one Baba Badri Vishal Giri, is residing in the said Hermitage. Due to the mental condition of deceased Kartar Singh, the said Baba had asked the deceased not to come to the Hermitage. Despite that his son used to visit the said Hermitage and said Baba often gave beatings to his son. On 28.3.2019, at about 5.00 p.m., his son, without informing anybody, had gone to 'Magru Mahadev Shiv Sthan'. At about 10.30 p.m., Up-Pradhan temple committee made a telephone call to the complainant regarding scuffle taken place between his son and the Baba and asked him to take his son home. Due to the death of his mother previous night, he could not go to take his son back. Thereafter at about 12.15 a.m., Sony Kumar, Bali Ram and Rajinder Kumar had brought Kartar Singh (deceased) to the road near to his residence, who was unconscious at that time. He was injured and blood was oozing out from his nose and there were injuries on his body. On checking, the parents of Kartar Singh found that their son has died. Based on these allegations, the Police registered the FIR mentioned above. The investigation revealed that accused Vikul, petitioner herein had informed accused Rajender and Ranjeet about the visit of Kartar Singh, the deceased, to the temple and after scuffle he had gone towards the forest. Thereafter, Baba Vishal Giri, had instigated accused Rajender, Ranjeet and Vikul to bring him from the forest and teach him a lesson. Thereafter, all three went towards the forest and brought the deceased to the temple by giving beatings with kicks and fists blows.

6. Ld. Counsel for the petitioner contends that incarceration before the proof of guilt would cause grave injustice to the petitioner and family.

7. On the contrary, the State contends that the Police have collected sufficient evidence against the bail petitioner and the co-accused. Another argument on behalf of the State is that the crime is heinous, the accused is a risk to law-abiding people, and bail might send a wrong message to society.

REASONING:

8. To adjudicate the submissions made by Ld. Counsel for the petitioner, it would be necessary to refer to all the evidence collected in the investigation.

9. A reference to the status report reveals that the Officer-in-charge of the Police Station has already forwarded the police report under Section 173 (2) CrPC to the concerned Court. Had the accused not received the documents in compliance with S. 207 CrPC, this Court would have certainly asked the respondent to produce the same. However, the petitioner does not claim the non-receipt of the challan. The accused receives copies of the Police report and the copies of the statements of witnesses free of cost.

10. The allegations in the case are serious and offence heinous. To decide the bail petition on merits would require this Court to peruse the evidence collected by the prosecution. The petitioner neither annexed the copy of the police report filed under Section 173(2) CrPC nor does he say that the Trial Court did not supply the same to him under S. 207 CrPC. Even there is no ground pleaded or explanation offered that constrained the petitioner from filing it with the petition. Thus, the Court cannot decide the bail petition.

11. Given above, the petition is dismissed, reserving liberty to file a new petition on the same cause of action or different grounds by annexing a copy of the police report, etc.

**(Anoop Chitkara),
Judge.**

May 31, 2021 (ps).