

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA
ON THE 30th DAY OF JUNE, 2022
BEFORE
HON'BLE MR. JUSTICE SANDEEP SHARMA

1. CRIMINAL MISC. PETITION (MAIN) No.1313 of 2022

Between:

**SH. MUNI LAL
S/O SH DYAYA RAM,
RESIDENT OF VILLAGE HARIPUR,
PO KUMARHATTI,
TEHSIL AND DISTRICT SOLAN, H.P.,
AGED ABOUT 38 YEARS.**

....PETITIONER

**(BY MR. SUDHIR BHATNAGAR,
SENIOR ADVOCATE WITH
MR. KARUN NEGI, ADVOCATE)**

AND

STATE OF HIMACHAL PRADESH

....RESPONDENT

**(BY MR. SUDHIR BHATNAGAR
AND MR. NARENDER GULERIA,
ADDITIONAL ADVOCATES GENERAL,
WITH MR. SUNNY DHATWALIA,
ASSISTANT ADVOCATE GENERAL)**

2. CRIMINAL MISC. PETITION (MAIN) No. 1314 of 2022

Between:

**SMT. KAUSHALYA
WIFE OF SH. ROOP RAM,
RESIDENT OF VILLAGE HARIPUR,
PO KUMARHATTI,
TEHSIL AND DISTRICT SOLAN, H.P.,**

AGED ABOUT 36 YEARS.

....PETITIONER

**(BY MR. SUDHIR BHATNAGAR,
SENIOR ADVOCATE WITH
MR. KARUN NEGI, ADVOCATE)**

AND

STATE OF HIMACHAL PRADESH

....RESPONDENT

**(BY MR. SUDHIR BHATNAGAR
AND MR. NARENDER GULERIA,
ADDITIONAL ADVOCATES GENERAL,
WITH MR. SUNNY DHATWALIA,
ASSISTANT ADVOCATE GENERAL)**

3. CRIMINAL MISC. PETITION (MAIN) No. 1315 of 2022

Between:

**SMT. POONAM
WIFE OF SH. MUNI LAL,
RESIDENT OF VILLAGE HARIPUR,
PO KUMARHATTI,
TEHSIL AND DISTRICT SOLAN, H.P.,
AGED ABOUT 34 YEARS.**

....PETITIONER

**(BY MR. SUDHIR BHATNAGAR,
SENIOR ADVOCATE WITH
MR. KARUN NEGI, ADVOCATE)**

AND

STATE OF HIMACHAL PRADESH

....RESPONDENT

**(BY MR. SUDHIR BHATNAGAR
AND MR. NARENDER GULERIA,
ADDITIONAL ADVOCATES GENERAL,
WITH MR. SUNNY DHATWALIA,
ASSISTANT ADVOCATE GENERAL)**

4. CRIMINAL MISC. PETITION (MAIN) No. 1317 of 2022

Between:

**SH. BAHADUR SINGH,
S/O SH. KHEM CHAND
RESIDENT OF VILLAGE HARIPUR,
PO KUMARHATTI,
TEHSIL AND DISTRICT SOLAN, H.P.,
AGED ABOUT 40 YEARS.**

....PETITIONER

**(BY MR. SUDHIR BHATNAGAR,
SENIOR ADVOCATE WITH
MR. KARUN NEGI, ADVOCATE)**

AND

STATE OF HIMACHAL PRADESH

....RESPONDENT

**(BY MR. SUDHIR BHATNAGAR
AND MR. NARENDER GULERIA,
ADDITIONAL ADVOCATES GENERAL,
WITH MR. SUNNY DHATWALIA,
ASSISTANT ADVOCATE GENERAL)**

Whether approved for reporting?.

These petitions coming on for orders this day, the Court passed the following:

ORDER**Cr.MPM No. 1316 of 2022**

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Cr.MPM No. 1313, 1314, 1315 and 1317 of 2022

Sequel to order dated 16.6.2022, whereby the petitioners were ordered to be enlarged on bail in case FIR No.95 dated 2.6.2022, registered at Police Station, Dharampur, District Solan, H.P., under Sections 420, 465, 467, 471 and 120B IPC, respondent-state has filed the status report. ASI Gurdial Singh, P.S. Dharampur, has also come present with the records. Records perused and returned.

2. Mr. Sudhir Bhatnagar, learned Additional Advocate General, on instructions, fairly states that pursuant to order dated 16.6.2022 passed by this Court, bail petitioners have joined the investigation and as of now, nothing remains to be recovered from them. He, on instructions, also states that their custodial interrogation is not required at this stage and as such State has no objection, in case the petitioners are ordered to be enlarged on bail subject to condition that they shall always make themselves available as and when required by the Investigating Agency.

3. Needless to say, object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. Otherwise also, normal rule is of bail and not jail. Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime. See: ***Sanjay Chandra versus Central Bureau of Investigation*** (2012)¹ Supreme Court Cases 49 and ***Prasanta Kumar Sarkar v. Ashis Chatterjee and Another*** (2010) 14 SCC 496.

4. Recently, the Hon'ble Apex Court in Criminal Appeal No. 227/2018, **Dataram Singh vs. State of Uttar Pradesh & Anr.**, decided on 6.2.2018, has categorically held that a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. Hon'ble Apex Court further held that while considering prayer for grant of bail, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Hon'ble Apex Court

further held that if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimized, it would be a factor that a judge would need to consider in an appropriate case.

5. Consequently, in view of the above, order dated 16.6.2022, passed by this Court, is made absolute, subject to the following conditions:

- a. They shall make themselves available for the purpose of interrogation, if so required and 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;*
- b. They shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;*
- c. They shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or the Police Officer; and*
- d. They shall not leave the territory of India without the prior permission of the Court.*

6. 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.

7. Any observations made hereinabove shall not be construed to be a reflection on the merits of the main case and shall remain confined to the disposal of these applications alone.

The bail petitions stand disposed of accordingly.

Copy **Dasti**.

30th June, 2022
(manjit)

(Sandeep Sharma),
Judge