

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No. 2027 of 2020

Reserved on: 10.12.2020

Decided on: 14.12.2020

Ranjit Singh

...Petitioner.

Versus

State of Himachal Pradesh

...Respondent.

Coram:

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

Whether approved for reporting?¹ No

For the petitioner: Mr. Anup Rattan, Advocate.

For the respondent: Mr. Ram Lal Thakur, Assistant Advocate General.

COURT PROCEEDINGS CONVENED THROUGH VIDEO CONFERENCE

Anoop Chitkara, Judge.

For cruelty, demanding dowry leading to her unnatural death and committing culpable homicide of his wife, her husband-petitioner has come up before this Court seeking regular bail.

2. The police arrested the petitioner on 27.9.2020 in FIR No.231 of 2019, dated 15.10.2019, registered under Sections 498-A, 323, 304, 304B, Indian Penal Code, 1860, (IPC), in Police Station, Nurpur, District Kangra, Himachal Pradesh, disclosing cognizable and non-bailable offences.

3. Briefly, the allegations against the petitioner are that:

a. on 15.10.2019, Shri Jodh Singh, who is brother of the victim Suman Lata, wife of petitioner, Ranjit Singh, informed the police station about the death of her sister, which was not in normal circumstances.

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

b. Based on his complaint, the police recorded his statement under Section 154, Cr.PC, which revealed that the petitioner was married with the deceased in the year 2013. Immediately after the wedding, the petitioner started assaulting his wife. In October, 2013, the petitioner turned his wife Suman Lata out of the matrimonial home. The matter was reported to the police station and in March, 2019, it was compromised.

c. Prior to that, in December, 2018, the victim had rejoined the company of her husband in the matrimonial home. The accused did not mend his ways and kept on meeting cruelty upon his wife. In August, 2019, Suman Lata gave birth to a daughter. On this, when the complainant along with his sister visited the house, then the deceased told him that the accused did not give her adequate food. He also threatened her that in case she gave birth to a girl child, he would not spare her.

d. The complainant further stated that yesterday, i.e., 14th October, 2019, when he visited the house of his sister on account of 'Karwa Chauth', then he found his sister unwell and her husband was not at home. At about 6.30 p.m. when her husband Ranjit Singh, petitioner reached home then the complainant told him that she was unwell and had to be taken to the hospital. On this, the petitioner told him that he could take her, wherever he wanted to and asked him to leave his house along with his sister. After that, he admitted his sister in Civil Hospital, Nurpur, where on 15.10.2019 in the morning, she expired.

e. Based on this information, the police registered the FIR mentioned above.

f. After that, post-mortem examination of the victim was conducted and the Assistant Director sent the viscera to RFSL, Tanda. The laboratory did not find any poison or drug from the contents taken from the body of the victim. After that, the doctors were of the opinion that the cause of death was cardioarrhoithmis and likely as a case given of thrombosis. After that, the prosecution sought further opinion from the doctor that whether the death was due to starvation or not. On this, the doctors opined that the cause of death was cardiac-arrhoitchmis and they found the traces of starvation, but that was not sufficient to cause death. The police arrested the accused on 27.9.2020 and since then, he is in judicial custody.

4. I have gone through the status report and heard learned counsel for the parties.

5. Mr. Anup Rattan, learned counsel for the petitioner submits that the only criminal history of the accused relates to small incidents against his wife and nothing else. Status report also does not dispute this position.

6. While opposing the bail, the alternative contention on behalf of the State is that if this Court grants bail, such order must be subject to conditions.

ANALYSIS AND REASONING:

7. In **Gurbaksh Singh Sibbia and others v. State of Punjab**, 1980 (2) SCC 565, (Para 30), a Constitutional bench of Supreme Court held that the bail decision must enter the cumulative effect of the variety of circumstances justifying the grant or refusal of bail. In **Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav**, 2005 (2) SCC 42, (Para 18) a three-member bench of Supreme Court held that the persons accused of non-bailable offences are entitled to bail, if the Court concerned concludes that the prosecution has failed to establish a prima facie case against him, or despite the existence of a prima facie case, the Court records reasons for its satisfaction for the need to release such persons on bail, in the given fact situations. The rejection of bail does not preclude filing a subsequent application, and the Courts can release on bail, provided the circumstances then prevailing requires, and a change in the fact situation. In **State of Rajasthan, Jaipur v. Balchand**, AIR 1977 SC 2447, (Para 2 & 3), Supreme Court noticeably illustrated that the basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the court. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh with us when considering the question of jail. So also the heinousness of the crime. In **Gudikanti Narasimhulu v. Public Prosecutor, High Court of Andhra Pradesh**, (1978) 1 SCC 240, (Para 16), Supreme Court in Para 16, held that the delicate light of the law favours release unless countered by the negative criteria necessitating that course. In **Dataram Singh v. State of Uttar Pradesh**, (2018) 3 SCC 22, (Para 6), Supreme Court held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that

discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.

8. Pre-trial incarceration needs justification depending upon the offense's heinous nature, terms of the sentence prescribed in the statute for such a crime, probability of the accused fleeing from justice, hampering the investigation, criminal history of the accused, and doing away with the victim(s) and witnesses. The Court is under an obligation to maintain a balance between all stakeholders and safeguard the interests of the victim, accused, society, and State. However, while deciding bail applications, the Courts should discuss evidence relevant only for determining bail. The difference in the order of bail and final judgment is similar to a sketch and a painting. However, some sketches are in detail and paintings with a few strokes.

9. The lady had died in the hospital and the laboratory did not detect any poison from the contents taken from the body. Even as per the subsequent opinion sought on 18.8.2020, the lady could not have died due to starvation alone. Regarding other allegations those are general in the nature and not sufficient to continue further incarceration.

10. An analysis of entire evidence does not justify further incarceration of the accused, nor is going to achieve any significant purpose. Without commenting on the merits of the case, the stage of the investigation and the period of incarceration already undergone would make out a case for bail.

11. The possibility of the accused influencing the course of the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice, can be taken care of by imposing elaborative conditions and stringent conditions. In **Sushila Aggarwal**, (2020) 5 SCC 1, Para 92, the Constitutional bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.

12. Given the above reasoning, the Court is granting bail to the petitioner, subject to strict terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of CrPC, 1973.

13. Following the decision of this Court in **Manish Lal Shrivastava v. State of Himachal Pradesh**, Cr.MP(M) No. 1734 of 2020, decided on 1st Dec 2020, the petitioner shall be released on bail in the FIR mentioned above, subject to his furnishing a personal bond of Rs. One ten thousand (INR 10,000/-), and shall either furnish two sureties of a similar amount, both of whom, in case of default from putting in an appearance, can produce the accused before the Court to the satisfaction of the Judicial Magistrate, Kangra/ Chief Judicial Magistrate, District Kangra, HP/ or any other Judicial magistrate of District Kangra, HP or the aforesaid personal bond and fixed deposit(s) for Rs. Ten thousand only (INR 10,000/-), made in favour of “Chief Judicial Magistrate, District Kangra, H.P.”, from any of the banks where the stake of the State is more than 50%, or any of the stable private banks, e.g., HDFC Bank, ICICI Bank, Kotak Mahindra Bank, etc., with the clause of automatic renewal of principal, and liberty of the interest reverting to the linked account. Such a fixed deposit need not necessarily be made from the account of the petitioner. If such a fixed deposit is made on paper, then the original receipt shall be handed over to the arresting officer. If made online, then its printout, attested by any Advocate, and if possible countersigned by the accused, shall be filed, and the depositor shall get the online liquidation disabled. The petitioner or his Advocate shall inform at the earliest, either by e-mail or by post/courier, the concerned branch of the bank about the fixed deposit, whether made on paper or in any other mode, along with its number as well as FIR number, that it has been tendered as surety. After that he shall hand over such proof along with endorsement to the Investigator. It shall be total discretion of the petitioner to choose between surety bonds and fixed deposits. It shall also be open for the petitioner to apply for substitution of fixed deposit with surety bonds and vice-versa. Subject to the proceedings under S. 446 CrPC, if any, the entire amount of fixed deposit along with interest credited, if any, shall be endorsed/returned to the depositor(s). Such Officer shall have a lien over the deposits until discharged by substitution, and in case any Court takes cognizance then such Court, upon which the investigator shall hand over the deposit to such Court, which shall have a lien over it up to the expiry of the period mentioned under S. 437-A CrPC, 1973, or as the case may be. The furnishing of the personal bonds shall be deemed acceptance of the following and all other stipulations, terms, and conditions of this bail order:

- a) The petitioner to give security to the concerned Court(s) for attendance. Once the trial begins, the petitioner shall not, in any manner, try to delay the trial. The petitioner undertakes to appear before the concerned Court, on the issuance of summons/warrants by such Court. The petitioner shall attend the trial on each date, unless exempted, and in case of appeal, also promise to appear before the higher Court, in terms of Section 437-A CrPC.
- b) The attesting officer shall mention on the reverse page of personal bonds, the permanent address of the petitioner along with the phone number(s), WhatsApp number (if any), email (if any), and details of personal bank account(s) (if available).
- c) The petitioner shall join investigation as and when called by the Investigating Officer or any Superior Officer. Whenever the investigation takes place within the boundaries of the Police Station or the Police Post, then the petitioner shall not be called before 8 AM and shall be let off before 5 PM. The petitioner shall not be subjected to third-degree methods, indecent language, inhuman treatment, etc.
- d) The petitioner shall cooperate with the investigation at all further stages as may be required, and in the event of failure to do so, it will be open for the prosecution to seek cancellation of the bail granted by the present order.
- e) The petitioner shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police officials, or any other person acquainted with the facts of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.
- f) Once the trial begins, the petitioner shall not in any manner try to delay the trial. The petitioner undertakes to appear before the concerned Court, on the issuance of summons/warrants by such Court. The petitioner shall attend the trial on each date, unless exempted.
- g) In addition to standard modes of processing service of summons, the concerned Court may serve the accused through E-Mail (if any), and any instant messaging service such as WhatsApp, etc. (if any). [Hon'ble Supreme Court of India in Re Cognizance for Extension of Limitation, Suo Moto Writ Petition (C) No. 3/2020, I.A. No. 48461/2020- July 10, 2020].

- h) The concerned Court may also inform the accused about the issuance of bailable and non-bailable warrants through the modes mentioned above.
- i) In the first instance, the Court shall issue summons and may send such summons through SMS/ WhatsApp message/ E-Mail.
- j) In case the petitioner fails to appear before the Court on the specified date, then the concerned Court may issue bailable warrants, and to enable the accused to know the date, the Court may, if it so desires, also inform the petitioner about such Bailable Warrants through SMS/ WhatsApp message/ E-Mail.
- k) Finally, if the petitioner still fails to put in an appearance, then the concerned Court may issue Non-Bailable Warrants to procure the petitioner's presence and send the petitioner to the Judicial custody for a period for which the concerned Court may deem fit and proper to achieve the purpose.
- l) The petitioner shall intimate about the change of residential address and change of phone numbers, WhatsApp number, e-mail accounts, within thirty days from such modification, to the Police Station of this FIR, and also to the concerned Court.
- m) In case of violation of any of the conditions as stipulated in this order, the State/Public Prosecutor may apply for cancellation of bail of the petitioner. Otherwise, the bail bonds shall continue to remain in force throughout the trial and also after that in terms of Section 437-A of the CrPC.

14. The learned Counsel representing the accused and the Officer in whose presence the petitioner puts signatures on personal bonds shall explain all conditions of this bail order to the petitioner, in vernacular and if not feasible, in Hindi or English.

15. In case the petitioner finds the bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s), the petitioner may file a reasoned application before this Court, and after taking cognizance, even before the Court taking cognizance or the trial Court, as the case may be, and such Court shall also be competent to modify or delete any condition.

16. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency, from further investigation in accordance with law.

17 Any observation made hereinabove is neither an expression of opinion on the merits of the case, nor shall the trial Court advert to these comments.

The petition stands allowed in the terms mentioned above. All pending applications, if any, stand closed.

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(Anoop Chitkara),
Judge.

14th December, 2020 (mamta)

High Court of H.P.